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Senate

The Senate met at 2 p.m. and was called to order by the Honorable AL FRANKEN, a Senator from the State of Minnesota.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, our God and provider, we thank You for the many blessings we enjoy as citizens of this great Nation. May we be good stewards of Your gifts. Lord, as we reflect on the future, we pray that Your sovereign presence will protect us from evil and equip us to do what is right and just and good.

We pray for our Senators today, asking that You would keep them in good health and focused on Your plans to guide and prosper them and the Nation they serve. We are grateful that You are here on Capitol Hill, listening, watching, and judging. May all of our elected leaders do what is right for Your everlasting glory.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable AL FRANKEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 29, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable AL FRANKEN, a Senator from the State of Minnesota, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. FRANKEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, there will be a period of morning business until 4 p.m. today, with Senators permitted to speak for up to 10 minutes during that period of time. Following morning business, the Senate will resume consideration of the Food Safety Modernization Act. At 5:30 today, Senator-elect MARK KIRK will be sworn to be a Senator from the State of Illinois. At 6:30, the Senate will proceed to vote on the substitute amendment to the food safety bill. Under an agreement reached before the recess, if cloture is invoked, all postcloture debate time will be yielded back except for the time allotted in agreement and the only amendments or motions in order are motions to suspend the rules offered by Senators JOHANNS and BAUCUS, both relating to 1099 forms, and two offered by Senator COBURN, one relating to earmarks and another, a complete substitute for the bill. If cloture is invoked, we will debate the motions and then stack the votes for later tonight. There is up to 1 hour total on the Johanns and Baucus motions and 4 hours on the Coburn motions. Upon disposition of the motions, the Senate will proceed to vote on passage of the food safety bill.

I spoke to Senator MCCONNELL earlier today. It was suggested that what we would do, if we can get permission from the Senate, is have the two votes. We will have the cloture vote and Johanns and Baucus, and then there is 4 hours of debate, which would put us until 11, 11:30 tonight. I think Senator MCCONNELL and I believe it would be to everyone's interest to have those three votes in the morning at 9 o'clock. Senator MCCONNELL and I have a meeting at the White House, and we would have to have the votes start at 9. That is where we will try to get to, so everyone should be alerted to the schedule issue.

UNIVERSITY OF NEVADA'S UPSET OF BOISE STATE

Mr. REID. Mr. President, when you talk about the top teams in college football since the start of the century, you have to talk about Boise State University. A lot of people know about their famous blue turf and their quick, creative offense. Even casual college football fans can talk like experts about the stunning trick plays that led the Broncos over a heavily favored Oklahoma team in a 2007 bowl game.

It is decidedly one of the most dominant programs of the decade. How dominant? Since Boise State joined the Western Athletic Conference in 2001, it had lost just four conference games in 10 years.

On Friday night in Reno, it lost its fifth.

Boise State came in ranked third in the country and was on track for its third undefeated season in 5 years. It had a shot at the national championship. But thanks to the University of Nevada Wolf Pack and its brilliant head coach, Chris Ault, Boise State is no longer in the running. And now when you talk about the top upsets in college football, you have to talk about Nevada.

Nevada and Boise State have been rivals for a long time—back when they played in the Big Sky and Big West Conferences, and in the Western Athletic Conference where they play

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

today. They will soon leave the WAC together to join the Mountain West Conference, and the rivalry will continue. Although some recent games have been close—the 2007 one went to four overtimes—Nevada had not won since 1998.

But this year's Nevada team has been among the best in school history. It leads the conference in offense, rushing yards and points scored. After this weekend's win, it is ranged fourteenth in the country.

Still, beating a powerhouse like Boise State was no piece of cake. No one had beaten the Broncos since December 2008. The Wolf Pack were 14-point underdogs. They were down 17–0 late in the second quarter. Then quarterback Colin Kaepernick led an incredible second-half comeback and forced overtime.

They won the game when a 5-foot–6 freshman from McQueen High School in Reno, a young man named Anthony Martinez, kicked the most important field goal in State history.

It was not that long ago that the University of Nevada did not even field a Division I team. Now our proud program has knocked off one of the toughest teams in the Nation.

It is no fluke. Coach Chris Ault is an exceptional leader and a good man. I am proud to call him a very good friend.

I have known Chris for a long time. When he was just 23 years old, he became the youngest high school head coach in the state, leading the Bishop Monogue Miners in Reno. I was a member of the school's athletic booster club, and I was impressed with Chris Ault from the day I met him.

He led the Wolf Pack as its quarterback in the 1960s, as its athletic director two decades later, and has been its head coach three times, totaling 26 years. He is one of the smartest coaches in the country. A few years ago he invented the Pistol offense. Now schools across the Nation, and even some NFL teams, are copying it.

In fact, only two men enshrined in the College Football Hall of Fame are still actively coaching at the sport's highest level: the legendary Joe Paterno and Nevada's Chris Ault.

At the end of October, I was in church in Reno when a tall young man sat down next to me. It was Nevada's quarterback, Colin Kaepemick, preparing himself spiritually for the next game. In Friday's game, he became the first player in NCAA history to throw for more than 2,000 yards and run for 1,000 yards in three straight seasons.

Sometimes it is true what they say—that it is just a game. But this is one of those times when it is much more. This remarkable, memorable win means so much for an underrated and underappreciated athletic program, for a great university and for the whole State of Nevada.

Congratulations to Coach Ault, Colin Kaepernick, Anthony Martinez and the Wolf Pack. I never doubted you would pull it off.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 4 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Pennsylvania.

START TREATY RATIFICATION

Mr. SPECTER. Mr. President, I have sought recognition principally to urge my colleagues to ratify the START treaty with Russia. I ask unanimous consent at the outset that the text of a memorandum from Senator JON KYL and Senator BOB CORKER, two Republican Members, dated November 24, 2010, regarding progress in defining nuclear modernization requirements be printed in the RECORD at the conclusion of my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. I urge my colleagues to move ahead with the prompt ratification of this treaty.

I have long been interested in the relationship between the United States and the Soviet Union, predecessor to Russia, on the issue of arms control, going back to my college days as a student of international relations.

One of the first items which attracted my concern on election to the Senate was a Saturday speech made by then-President Reagan where he said essentially that the United States had sufficient weapons to destroy the Soviet Union and, similarly, the Soviet Union had sufficient weapons to destroy the United States. For decades, the two countries lived under the truce, so to speak, of mutual assured destruction. That has given way to arms control negotiations and the successful negotiation of treaties. For example, the START I treaty in 1992 was approved by a margin of 93 to 6. The START II treaty of 1996 was approved by a margin of 87 to 4. The Moscow Treaty of 2003 was approved by a vote of 98 to nothing.

The memorandum I have referenced raises a number of concerns which I submit to my colleagues ought not to stop us from moving ahead with ratification. For example, the memorandum makes this point on page 5:

> Additional funding could be applied to accelerate the construction of these facilities to ensure on schedule completion. . . .

Well, there is no showing of a problem on on-schedule completion. To talk about ''additional funding could be applied'' is far from saying it is necessary for our national security.

The memorandum further says:

> Further Administration effort to advance funding is the best path to successful completion of these facilities.

Well, here again, there is no showing that advance funding is necessary for successful completion. It simply says it ''is the best path to successful completion of these facilities,'' but no showing that the current path is not an adequate path.

The memorandum, in another spot, makes this statement:

> . . . the NNSA is reviewing an updated surveillance plan that could lead to greater budget requirements.

''Could.'' It does not say it would lead to greater budget requirements, and what is speculative as to what could happen ought not to be taken as any reason for objecting to the ratification.

Still later in the memorandum there is the statement:

> . . . there are still no costs or funding commitments beyond FY 2015.

Well, that is not surprising when we are in the year 2010. Adequate time to consider and make commitments beyond 2015 is hardly a reason not to move ahead with ratification.

Then, on page 5, under the category of ''Conclusion,'' there is a statement about ''assurances from the appropriate authorizers and appropriators must be obtained to ensure that the enacted budget reflects the President's request.''

Well, that is unrealistic. There is no way to get assurances from authorizers—that is referring to the Armed Services Committee—or the appropriators, specifically the Defense Appropriations Subcommittee, a subcommittee on which I have served during my tenure.

When you talk about getting assurances from legislators, from Senators, from Members of the House of Representatives, that, simply stated, is unrealistic, I submit.

The concerns I had in the early days of my tenure in the Senate led me to propose a resolution for a summit meeting which was contested by Senator Tower, who was then-chairman of the Armed Services Committee. On this floor—I can still see Senator Tower on the end seat in the third row back and I in the junior league my first couple of years in the Senate. Senator Tower was a tough advocate. We had quite a protracted debate about the triad.

I had done my homework. I had been to Grand Forks, ND, and seen the Minuteman II. It was my first experience seeing a nuclear weapon, and it was quite a sight. I recall looking down an open space—I think it went close to 100 feet, perhaps 90 feet; I would not affirm exactly what it was—and seeing the Minuteman II, and that was, in effect, small potatoes compared to what we have had since. I went to the Air Force base in California to look at the B bomber, the B–1 or the B–2 at that time, and to South Carolina to Charleston to see the nuclear submarines.

I had quite a debate with Senator Tower as to whether the subs were detectable, which bore on the issue of whether we had sufficient strength, and the tabling motion was defeated on a vote of 60 to 38. I recall Senator Laxalt walking down the aisle and voting no and starting to head for the Republican cloakroom, and Senator Tower walked fast, chasing him up the aisle, and said: You don't understand, Paul, this is a tabling motion. I am looking for an ''aye.'' And Laxalt turned and said: I understand what you are after, John, but I agree with Arlen Specter. Senator Tower said: He is trying to tell the President what to do. Senator Laxalt said: Well, so is everybody else—really, in effect, saying that is what Senators do from time to time, just expressing their opinions.

The tabling motion was defeated 60 to 38, and the resolution was adopted 90 to 8.

There has been a lot of unease and consternation among foreign nations as to what is going on in the Senate. I do not question the motives of the writers of the memorandum. I do not question their motives or their good faith. But there is considerable concern both at home and abroad as to the gridlock which now confronts the Senate. That is inevitable when one Senator says: We are going to see to it that this is President Obama's Waterloo, and when leadership on the other side of the aisle says: Our principal objective is to defeat President Obama in 2012. There is a concern about what is happening, whether there are really bona fide objections to the START talks.

In connection with the travels I have undertaken during the course of the past many months—in India, with a congressional delegation, a group of us met with the Prime Minister of India, a concern about agreements made with our executive branch, whether they will be upheld; a meeting with officials in China on certain trade issues; talking to leaders in other foreign countries, a real question about what is going on in the government of the United States.

In this interdependent world, I suggest it is very important we project a national image, a national posture of rationality in what we are doing and not to throw up roadblocks to international agreements such as START without good reason in the context where at least in appearances there is obstructionism.

When we talk about risks involved, my own view is that we are far at this point from a threat with the Russian Government. This is not the day of the Cuban missile crisis in 1962 when the world may have teetered on the edge of a nuclear confrontation. The relations with the Soviet Union were disintegrated. The relations with Russia are vastly improved, and we need the cooperation of Russia in dealing with many very vexing international problems, paramount of which is our dealings with Iran and the need to have the Russians join us in sanctions against Iran and to promote the Russian offer to enrich the uranium from Iran so they do not enrich it themselves, posing a threat with what Iran would do with enriched uranium—a threat which is not present if it is not in Iran's hands when uranium is enriched, which could be used for peaceful purposes.

We see today the importance of the cooperation of China in the concerns we have with North Korea. When that problem broke last week, my first comment publicly in a television interview on MSNBC was to state what was the obvious: that we had to engage China to deal with North Korea. China's initial comments were muted, were not very encouraging. I am pleased to see the most recent reports are that China is moving ahead to try to deal with a threat posed by North Korea, having shuttle talks between North Korea and South Korea.

So it is in this overall context of having the assurances registered with foreign governments that there is rationality. When we talk about risks, my own assessment—and I have studied this situation closely. I was a member of the U.S. arms talks in Geneva going back into 1987, during that decade and beyond. But the risks are not what they once were. It is never possible to eliminate risks entirely, but when we are looking to evaluate the balance of risks and international cooperation with Russia and our conduct on START, as we project an image of strength with other countries, the risk is well worth taking to the extent that it exists. Again, I say my own evaluation is that there is not much of a risk involved.

The Washington Post, last Friday, November 26, quoted one of the authors of the memorandum expressing satisfaction:

> I've come to the conclusion that the administration is intellectually committed to modernization now. . . .Whether they're committed in the heart is another matter. Suppose Start is ratified, and they no longer have to worry about that? Will they continue to press for the money?

Well, if we concede there is a commitment, be it an intellectual commitment, there is not a whole lot more that we can ask for.

EMBRYONIC STEM CELL RESEARCH

Mr. SPECTER. Mr. President, I had spoken about this when we reconvened several weeks ago, that it is my hope that Congress, the Senate specifically, will take up legislation which I have introduced which would authorize the use of Federal funding for embryonic stem cell research. Embryonic stem cell research holds enormous potential. You take the embryos which are the most flexible of all of the stem cells and they can replace diseased parts of the body and they offer promise of a veritable fountain of youth.

The U.S. District Court for the District of Columbia said the Executive order issued by President Obama was invalid. But Congress has the authority to legislate to cure any defect. The case is on appeal to the circuit court, and a stay has been issued. But the scientists are very apprehensive, as they testified before the Labor, Health and Human Services Subcommittee. There are some 200 projects with some $200 million involved.

It is not a constitutional matter. It is a matter of statutory interpretation on the existing statute. But to the extent there is any ambiguity, this is something which we ought to address and we ought to address promptly because it is a life-and-death matter. As long as the litigation is pending in the Federal court, the scientists do not know which way to turn. So they have made their point very clear.

The case could go on for a very protracted period of time when you have to file briefs, have argument, and a decision in the Court of Appeals for the District of Columbia. Then a possible petition for certiorari could take a matter of years. With the ideological issues involved, who knows what the final outcome would be in the judicial system. But that can all be put to rest by legislation.

TELEVISING THE SUPREME COURT

Mr. SPECTER. One other point briefly—I see a colleague awaiting an opportunity to speak—and that is my hope we will address, before the end of the year, the issue of televising the proceedings of the Supreme Court of the United States. This is an issue I have worked on, on the Judiciary Committee, for a couple decades now. It has been reported a number of times out of committee. It is currently on the Senate agenda.

The Supreme Court of the United States decides all of the cutting edge questions. There ought to be transparency. When the case of Bush v. Gore was argued, then-Senator BIDEN and I wrote to the Chief Justice urging that the proceedings be televised. We got a response back in the negative, but on that day there was a simultaneous audio released. I noticed 2 weeks ago that on C–SPAN there was a Supreme Court argument which was a couple weeks old with an audio, and they had a picture of the Justice who was speaking and a picture of the lawyer arguing the case—sort of like movies before talking; sort of like silent movies. There was an audio.

It is high time the public's business be open. Newspaper reporters can walk into the Supreme Court, make notes, upheld by the Supreme Court of the United States. Visitors are limited to some 3 minutes. The chambers can only hold about 250 people. It is time the Court was televised. I hope the Senate will act. I have discussed the issue with the leadership in the House and there are positive responses on the issue.

EXHIBIT 1

From: Sen. Jon Kyl, Sen. Bob Corker
To: Republican Members
Date: November 24, 2010
Re: Progress in Defining Nuclear Modernization Requirements

We appreciate your willingness to consider New START in the context of modernization of our nuclear complex and the weapons it supports.

In advance of having an opportunity to discuss the issue more fully next week in Washington, we want to summarize the status of our discussions with the administration.

SUMMARY

Throughout the Obama administration's pursuit of a New START treaty, we have been clear, as has Secretary Gates, that we could not support reductions in U.S. nuclear forces unless there is adequate attention to modernizing those forces and the infrastructure that supports them. The Administration's recent update of the 1251 plan, originally submitted in May in accordance with Section 1251 of the FY2010 NDAA, is an acknowledgment that more resources we needed to accomplish the objectives set forth in the Nuclear Posture Review for the modernization of the U.S. nuclear deterrent. This memo discusses our concerns with the original 1251 plan, changes made and our assessment of those changes and remaining issues.

BACKGROUND—THE DECLINE OF THE NUCLEAR WEAPON STOCKPILE AND INFRASTRUCTURE

Since the end of the Cold War, the U.S. nuclear weapons infrastructure (including laboratories, production facilities and supporting capabilities) has been allowed to deteriorate. The weapons have remained safe, secant and reliable, but they and their caretakers have been in a state of limbo—only when critical problems have arisen has action been taken. The production facilities are Cold War relics, safety and security costs have grown exponentially, and critical skills have been jeopardized through layoffs, hiring freezes, and the retirement of skilled scientists and technicians who earlier were able to fully exercise the full set of nuclear weapons-related skills. In FY2010, the Ohama administration invested only $6.4 billion in the National Nuclear Security Administration Weapons Activities funding line, a 20 percent loss in purchasing power from FY2005 alone. It is no longer possible to continue deferring maintenance of either the facilities or the weapons. As a result, the 2010 Nuclear Posture Review set forth a broad range of modernization and sustainment requirements that would be impossible without additional budget support.

A detailed explanation of these concepts is located in the appendix to this memo; but to help understand the current situation, imagine an automotive expert working in a garage built in 1942. The roof leaks and his tools are becoming outdated. Moreover, he has responsibility for a fleet of eight racing Ferraris, which have been sitting in storage for about 30 years. The last time any engine was turned on was 1992, but this ''steward'' is responsible for assuring that, at any given moment, each of the eight finely-tuned cars will respond to the key turn. To do this, he is allowed to assess components of the cars for aging—leaks, cracks, rust, etc. (though he isn't able to look at the components often enough and in sufficient detail because of his maintenance budget).

Even on a shoe-string budget, he is beginning to see signs of age throughout the fleet, and realizes that each and every car will require a complete overhaul (a ''life extension'' program). To be successful, he needs a new garage, updated tools, and skilled assistants (because truthfully, the expert will be retiring long before the overhauls are complete, assuming his pension fund is still solvent). He will have to replace some of the parts (especially the electronics—some of his fleet of Ferraris still have vacuum tubes), because they just aren't available anymore; but some parts will have to be reused, or manufactured to be as close to the original as possible. Some of the original parts contained materials that are now illegal for safety or environmental reasons. To add to the problem, the owner is asking for air bags, antilock brakes and anti-theft technology. Each overhaul will take about a decade, from planning through execution and without a new garage, he will be unable to finish the overhauls on time. And at the end of the day, the mechanic is fairly certain that he will not be allowed to turn the ignition to check his work.

This is the state of our nuclear deterrent today, except, we're dealing not with cars, but with the most sophisticated and dangerous weapons ever devised by man.

SECTION 1251 PLAN AND FY2011 BUDGET—A RESPONSE TO THE NUCLEAR POSTURE REVIEW

The initial section 1251 report showed a ten-year budget plan for Weapons Activities totaling $80 billion. But most of that $80 billion is not directed at modernization activities called for in the NPR—it is mostly consumed in ''keeping the lights on'' at the laboratories and plants, including safety, security, facility upkeep (which is difficult on very old facilities that would have been replaced long ago in the private sector), and routine warhead maintenance.

Only about $10 billion of that ten year number was for new weapons activity, about half of it coming from DOD and half from ''savings'' assumed from low inflation projections. We doubt such savings can be realized and the DOD funding is not enough to cover everything that needs to be done. It provides for a small increase to stockpile surveillance for warhead evaluation, funding for the W76 life extension program and the B61 and W78 life extension studies, and partial funding for badly-needed design, engineering and a modest investment for construction of new plutonium and uranium processing facilities—the Chemistry and Metallurgy Research Replacement (CMRR) nuclear facility and the Uranium Processing Facility (UPF). These new facilities will replace Manhattan Project-era buildings that are a substantial maintenance burden and are becoming increasingly challenging to maintain in a safe and operable condition.

Recognizing that more money was needed up front, the administration's FY2011 budget request of $7.0 billion for Weapons Activities improved the FY2010 budget by $624 million. The $624 million was included as a budget ''anomaly'' in the two month C.R. we passed before the October recess, but will have to be maintained in the longer-term C.R. or Omnibus we will pass in December.

The initial 1251 plan left a lot of questions about how all the work articulated in the NPR would be funded. Numerous experts expressed concerns about obvious shortfalls in funding and about restrictions placed on designers that will constrain their ability to work through stockpile issues. The funding levels for CMRR and UPF were of significant concern, as was the funding for Life Extension Programs—especially to incorporate improved safety, security and reliability in these warheads. And of great concern to the directors of the national weapons laboratories, much of the promised budget increase for modernization was not pledged until FY 16, by which point the Administration's commitment (if it is still in office) may have waned. As a result, we requested an update to the 1251 plan that would answer the questions we raised and that would show a stronger commitment to modernization.

UNDATED 1251 PLAN

After reviewing our questions, and with further review of the requirements imposed by the NPR, the Administration agreed that updated budgets were required. Thus, on November 17, 2010, an updated 1251 report was provided to the Senate, including an early FY12 budget projection with White House approval. The 1251 update, and the briefing provided as part of the update, satisfied many, but not all, of the initial questions we had earlier expressed.

The 1251 plan update increases the FY2012 budget request by an additional $600 million, increases the FY2012 five-year plan by $4.1 billion, and adds to the total FY11 ten-year plan between $5.4 and $62 billion. We are told that the new increases will not be taken from the DOD budget line. This update brings the ten-year plan (from FY11) to between $85.4 and $86.2 billion. Again, approximately $70 billion of the original pledge of $80 billion was needed just to maintain current operations of the nuclear weapons complex, without covering the expense of the needed modernization of the stockpile or infrastructure. This update also includes revised cost estimates for CMRR and UPF; those estimates now range from $3.7 to $5.8 billion for CMRR and $4.2 to $6.5 billion for UPF.

The new $4.1 billion for the five years of the FY2012 FYNSP is divided as follows:

$340 million for design and engineering and modest construction activity for CMRR and UPF (see below for more detail);

$1.7 billion (approximately) for other facility construction and maintenance requirements, including the High Explosive Pressing Facility at Pantex and test facilities at Sandia National Laboratories;

$1.0 billion (approximately) for stockpile work, with added funding for life extension programs, stockpile surveillance and other design and research activities, though some of this funding ($255 million for the W76) is only needed because one life extension program will take longer due to the capacity bottleneck in the complex;

$1.1 billion for contractor pension obligations spread through Weapons Activities accounts (which, while needed, does not support modernization).

REMAINING CONCERNS

Despite this new increase, there remain a few substantial concerns about the adequacy of the proposed budget. For one, the Administration is attempting to address the enormous increases in the cost estimates for CMRR and UPF by delaying the full operation of those facilities by one to two years. This would stretch the final completion of CMRR to 2023 and UPF to 2024, although the Administration states that some operational capability would be established (as required) in 2020. If extended, hundreds of millions of dollars would be needed annually to maintain Manhattan Project-era facilities at LANL & Y–12. Additional funding could be applied to accelerate the construction of these facilities to ensure on schedule completion and prevent wasted investments in maintaining an securing facilities that are being replaed anyway.

Furthermore, the Administration is ignoring the benefits of ensuring funding commitments for these facilities early in the budget process. Responsible advance funding mechanisms exist, such as a FY12 request for three-year rolling funding (recommended by some NNSA budget specialists), or alternatively, an Administration commitment to seek advanced funding in FY13 following the completion of the 90 percent design cost estimate. Further Administration effort to advance funding is the best path to successful completion of these facilities.

Given the need to live with our currently aging stockpile until an adequate production capability is established (after 2020), accurate assessment of the state of the current stockpile is paramount. The 1251 plan update shows a doubling of surveillance funding from FY09 to FY11—which is commendable—but is our understanding that the NNSA is reviewing an updated surveillance plan that could lead to greater budget requirements. NNSA should affirm that this review has been completed and the budget request will reflect updated requirements.

Finally, the 1251 update made clear that NNSA will not restore a production capability adequate to maintain our current stockpile levels (declassified as 5,113 weapons total), and instead allow up to 1,500 warheads to be retired or held with no maintenance unless funding increases are sought and obtained. Failing to maintain hedge weapons will increase the risk that the U.S. cannot respond to a problem in our aging stockpile. The Administration should not engage in further cuts to our deployed or non-deployed stockpile without first determining if such cuts are in our national security interest and then obtaining corresponding reductions in other nations' nuclear weapons stockpiles, such as Russia's large stockpile of weapons not limited by New START (e.g., its tactical nuclear weapons).

MODERNIZATION OF U.S. STRATEGIC DELIVERY SYSTEMS

The 1251 update deals not only with our nuclear weapons, but the delivery systems that are part of our TRIAD. The update indicates somewhat clearer intent by the Administration to pursue a follow-on heavy bomber (though not specifically nuclear) and air-launched cruise missile (ALCM), though development costs beyond FY 2015 are yet to be determined. While the update notes that estimated costs for a follow-on bomber for FY 2011 through FY 2015 are $1.7 billion, there are still no costs or funding commitments beyond FY 2015. It is the same for the ALCM: $800 million programmed over the FYDP, but no cost estimates are included beyond FY 2015. We should have a better idea of these estimated costs over the full ten years of the 1251 plan, and know whether the Administration intends to make this new heavy bomber and ALCM nuclear capable.

Decision-making for an ICBM follow-on is unlikely before FY 2015, at the completion of an ongoing analysis of alternatives. The update notes: ''While a decision on an ICBM follow-on is not needed for several years, preparatory analysis is needed and is in fact now underway. This work will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM follow-on that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence.'' (emphasis added) We think it important to understand what the Administration intends when it suggests that a decision regarding a follow-on ICBM must be guided, in part, by whether it ''supports continued reductions'' in U.S. nuclear weapons—especially since we seriously doubt it's in our interests to pursue reductions beyond the New START treaty. One logical inference from this criterion is that a follow-on ICBM is no longer needed because the U.S. is moving to drastically lower numbers of nuclear weapons. We continue to press for a letter from the DOD confirming its commitment to follow-on nuclear-capable delivery systems.

CONCLUSION

Until these issues are resolved, it will be difficult to adequately assess the updated 1251 plan, despite the welcome increases in proposed spending. And as has always been clear, assurances from the appropriate authorizers and appropriators must be obtained to ensure that the enacted budget refledcts the President's request.

APPENDIX

Briefly, some of the stockpile programs most affected by the lack of Administration support for modernization include:

Replacing Manhattan Project-era Facilities: Since the closure of the Rocky Flat Plant in 1989, the U.S. has had only a limited capability to produce the core component of our stockpile weapons: the plutonium pit. To establish a pit production capability, a 60-year-old research laboratory must be replaced by the Chemistry and Metallurgy Research Replacement (CMRR) nuclear facility at Los Alamos. Likewise, producing uranium components at the 70-year-old facility at Y–12 in Oak Ridge is an increasing risk that requires construction of a new Uranium Processing Facility (UPF). Completion of these new facilities will be essential in meeting life extension program requirements starting in 2020.

Production Capacity: As Secretary Gates stated, ''Currently, the United States is the only declared nuclear power that is neither modernizing its nuclear arsenal nor has the capability to produce a new nuclear warhead.'' The United States requires a nuclear weapon production capability with sufficient capacity to satisfy the life extension requirement of our aging weapons, as well as to provide a ''hedge'' against future technical or political problems. Currently, we are limited to producing a handful of plutonium pits a year for one weapon, but are unprepared to produce most of the remaining pieces of that weapon. Modernization of the NNSA laboratories and plants is required to correct this issue, with the stated goal of establishing a ''capability-based'' production capacity. Without this capacity, there can be no stockpile reductions. In fact, General Chilton argues the stockpile might have to be increased: ''I would say because of the lack of a production capacity there's a fear that you might need to increase your deployed numbers because of the changing and uncertain strategic environment in the future.''

Life Extension Programs: Under current policy, the laboratories and plants are constrained to extending the life of existing warheads to keep them in the stockpile for much longer than originally expected. Thus, as the weapons age and concerns are observed, the laboratories and plants determine how best to repair the weapons. Aging components are replaced, remanufactured or inspected for reuse in the stockpile. In performing life extension for the W87 and the ongoing W76, our experts have discovered that it is very difficult to reconstitute processes and capabilities that have been allowed to atrophy. Currently, the W76 warhead is in LEP production, the B61 LEP study is underway and the NPR called for an FY2011 start to a W78/W88 LEP study that will research if the two warheads can be life-extended simultaneously.

Surveillance: The average age of our current nuclear weapons is approaching 30 years. To ensure that each warhead remains reliable, each year approximately 11 warheads per type should be returned from the military for dismantlement and evaluation. Components are inspected and tested to ensure reliable operation. This program aids in the annual assessment of the stockpile performed by the laboratories and is the lead mechanism for identifying potential stockpile issues. Due to inadequate funding, surveillance requirements have not been met for many years, raising concerns about confidence in the stockpile.

Deferring Maintenance, Creating Chokepoints: In addition to the CMRR and UPF construction projects to replace aging facilities, a significant number of buildings in our laboratories and plants have been accumulating a backlog of maintenance. This deferred maintenance creates a substantial number of facilities that could (and occasionally do) become a choke point in the progress of a life extension program. Maintenance can only be deferred for so long, until, eventually, something breaks; and when it does break, it is usually much more expensive to replace than routine maintenance would have cost. Reducing deferred maintenance is a demonstration that we are moving from a nuclear weapons complex in decline, to a revitalized and robust capability.

Critical Skills: Perhaps the most significant attribute of a strong deterrent is the scientific and technical capability that is present in our laboratories and military complex. Maintaining those skills, especially as most nuclear-test experienced weapon designers are past retirement age, is a growing challenge within the NNSA laboratories and plants.

Hedging: Without a robust production capability, the U.S. maintains a large non-deployed stockpile as a technical hedge against stockpile concerns and a political hedge that allows rapid upload should another nation become increasingly adversarial. With the technical hedge, if one weapon type were discovered to have an urgent issue requiring replacement, alternate components in the force structure theoretically could be used to compensate for that loss of capability. For example, W78 warheads on Minuteman III might be replaced by W87 warheads maintained in storage, and vice-versa.

Delivery Systems: Nuclear weapon delivery systems require replacement within the next thirty years. These systems include:

The B–52H bomber, first deployed in 1961 and scheduled to be sustained through 2035;

The B–2 penetrating bomber, deployed in 1993 is currently being updated for long-term sustainment;

The Air-Launched Cruise Missile (ALCM), deployed in 1981 and scheduled to be sustained through 2030;

The Minuteman III ICBM, deployed in 1970, undergoing life extension and scheduled for replacement by 2030;

And the ballistic missile submarines and missiles. Ohio-class SSBNs were first deployed in 1981 and commence retirement in 2027. The Trident II Submarine Launched Ballistic Missile (SLBM), deployed in 1990, will be sustained through at least 2042, following a life extension.

Mr. SPECTER. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

1099 REPEAL

Mr. JOHANNS. Mr. President, we have a distinct opportunity to take what I regard as very clear and decisive action to uphold two very important principles. We as a Senate, No. 1, support enabling job creation. In this regard, repealing the 1099 paperwork mandate helps fulfill our promise to clear Federal roadblocks that are stopping small businesses from expanding and putting Americans to work.

Small businesses want to expand. They want to hire more workers. Millions of Americans want to get back to work. Yet the tax paperwork mandate hidden in the health care law requires businesses to file a mountain of additional 1099 tax forms. It will consume

resources that would otherwise be spent on wages for new employees. Our job creators need to be focusing their time and energy on hiring and expanding, not dealing with government-directed mounds of paperwork.

In addition to halting this enormous amount of tax paperwork, full repeal would prevent erroneous IRS fines and hefty accountant bills from slamming our job creators.

As the President of the National Federation of Independent Business put it:

> You can't operate and grow your business if you are spending all your time filling out IRS forms and haggling with auditors.

I couldn't agree more, and that is why I have been actively advocating for a complete and full repeal of this burdensome 1099 requirement for many months now. Anything less than a complete repeal is simply unacceptable.

No. 2, we take seriously the concerns of so many Americans with our government's out-of-control spending. That is the second principle we can stand for today. The elections recently held, I believe, sent a very clear message about Washington's spending habits and our enormous $14 trillion debt. Voters expressed dismay and alarm with the rate of government spending and with enormously good reason. Spending has increased by more than 21 percent since 2008 and annual deficits weigh in at more than $1 trillion.

American households across this great country are doing the best they can to put food on the table and pay the mortgage. In the face of a very difficult economic environment, they are doing everything they can to survive. Our families have seen their wages slashed, jobs lost, and home values plummet. Their solution to these difficulties isn't to continue spending with disregard for the level of their debt. Instead, they dig deep and figure out ways to cut costs and to make ends meet. Meanwhile, they look at their Federal Government in disbelief when they see how we continue to spend money we don't have.

My amendment takes their concerns to heart by fully offsetting the cost of the 1099 repeal. The alternative amendment piles $19 billion of debt onto the backs of future generations, further kicking the fiscal responsibility can down the road.

Then-Senator Obama said this in 2006: America has a debt problem and a failure of leadership.

When he refers to the debt problem, he is absolutely right. How true that is. Even the sponsor of the alternative has spoken very well on this issue. Again, I am quoting, and the board shows the quote:

> There is no one here who would argue the point that our deficits are too high. . . .We have to pay our national debt and then go on and find ways to reduce the budget deficits. I think all of us can agree that is something we have to do.

Getting our fiscal house in order will not be easy, but for the sake of the country's future, we have to take action.

Today we have an opportunity to do that: No. 1, repeal the onerous 1099 requirement; and No. 2, without adding a single penny to our deficit or to the cost of the health care law.

Some here may try to argue that we don't have to pay for the repeal. I could not disagree more. This repeal should and must be offset. As my colleagues may recall, in September, I offered a similar repeal that also was fully offset. It did receive significant bipartisan support, but some objected to my proposed offsets and came to me on the floor and said: I would be with you on this but for the offsets.

Opponents explained they voted no because they opposed taking money from the new health care law. So we sat down and, in the spirit of compromise, I took those criticisms to heart and came up with a new, noncontroversial way to pay for this needed repeal.

My amendment uses unspent and unobligated funds from Federal accounts to fully pay for the repeal of the 1099 mandate. This fiscally responsible approach is not controversial, and it has been done many times before. At the end of every year, there is money left in the accounts of Federal agencies that has not been obligated for a specific purpose. According to the most recent OMB estimate, roughly $684 billion is just sitting in these accounts at the end of fiscal year 2010. This almost $700 billion does not include—does not include—accounts for the Department of Defense or Veterans Affairs. We leave them off the table. So my amendment boils down to using about 5 percent of these funds—5 percent.

Additionally, my amendment gives the Office of Management and Budget discretion to decide what programs from which the funds can come. Again, this is not unusual; it has been done before. This approach is better than an across-the-board cut. It allows important programs to be spared any reduction. However, let's face it. This funding has been available all year long—some of it for several fiscal years. If it was important to our Nation, Federal agencies would have spent it now. As a former Cabinet member, I ran one of these agencies.

So there is no basis for the claims about what vital programs this amendment might reduce. Again, I emphasize, this has been done many times before. It is simply 5 percent of the nonsecurity-related funding that was lying dormant in Federal accounts at the end of the year. If we cannot agree to this noncontroversial offset, then the public demand for fiscal responsibility voiced in November has fallen on deaf ears.

In September, when the Senate first voted down my 1099 amendment, the concern was about the source of the offsets. No one argued that we simply did not need to pay for the repeal. No one got up and said: Well, we don't have to pay for this. This was never a part of anyone's argument. Yet that is exactly what the Baucus alternative amendment proposes. It says to our children and grandchildren: It is too tough for us to find $19 billion, so we are going to add it to the debt you will have to assume. It is a rejection of fiscal responsibility.

After all the hoopla over pay as you go, the alternative amendment doesn't include a single budgetary offset to cover costs. The amendment simply says: Let our kids and our grandkids sort it out on top of the $14 trillion of debt we are leaving them. That is unfortunate. If we can't come together to agree on a few billion dollars in budget constraint, how do we ever hope to address the $14 trillion national debt?

Any Senator who votes for the Baucus amendment is sending a clear message to his or her constituents that fiscal responsibility is not a priority. Any claim otherwise truly does ring hollow.

So I urge my colleagues to oppose the Baucus alternative and vote for the Johanns amendment. It will be a vote to protect our job creators and the prosperity of our children and grandchildren. We simply cannot keep kicking the fiscal responsibility can down the road.

I yield the floor and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRESSIONALLY DESIGNATED PROJECTS

Ms. MIKULSKI. Mr. President, I rise today to talk about my opposition to an amendment that is going to be offered by the Senator from Oklahoma to eliminate congressionally designated projects.

For me, the job has always been about the people, and the best ideas do come from the people. As I have traveled around the State of Maryland, whether to worksites or roundtables or unfettered, uncensored conversations in diners, I listen to the people. What they tell me is that they are mad at Washington because when all is said and done, more gets said than gets done. Families are stretched and stressed, and they want a government that is on their side. They want a strong economy, a safer country, and a government that is as frugal and thrifty as they are. People want us to focus on a constitutionally based government.

I support the people because I feel the same way. I do think we have to

focus on building a strong economy. We do have to focus on being a more frugal government. However, I say to my colleagues, getting rid of congressionally designated projects is really a false journey to be on. If we eliminate every congressionally designated project—otherwise known as earmarks—we won't do anything to reduce the deficit because congressionally designated projects are less than one-half of 1 percent of total Federal spending. What it will do, however, is make it harder to meet compelling human and community needs many of us hear about from our constituents. Without these congressionally designated projects, often their needs will be cast aside by a big government or a big bureaucracy.

I believe we need to fight for real deficit reduction, and the way we do it is to look at the recommendations of the various commissions that are being put forward, whether it is Simpson-Bowles or Domenici-Rivlin or others.

What I do think is that we also should maintain our constitutional prerogatives of fighting for our constituents and fighting by being able to put special projects into the Federal checkbook.

I have been clearly on the side of reform. We have had many requests for earmarks in my Subcommittee on Commerce, Justice, Science. I got $3 billion worth of requests, including $580 million for police officer technology. Another $980 million came for fighting crime, drugs, and gangs through enforcement, prevention, and intervention. Also, we got $220 million worth of requests in science and in education. We cannot fund those at those levels. In fact, we severely reduced them and stayed within what we think are acceptable limits. So we need the local communities to keep our communities safe, to educate our children in science and technology, and make sure we keep our police officers safe with earmarks of $3 billion.

There have been abuses of congressionally designated projects. That is why I support reform, and the leadership is focused on reform. In 2007, new Senate rules began to require full disclosure of these projects. In 2009, Senator INOUYE insisted on more significant reforms: Every project must be posted by Senators on their Web site. Every project must be less than 1 percent of the discretionary budget.

Today, congressionally designated projects—otherwise known as earmarks—are 50 percent below what they were when the Republicans controlled the Congress. Mr. President, I emphasize that under Democratic leadership, we reduced earmarks by 50 percent below what they were in 2006, and we made the process open and transparent. I think this is very important.

In the Commerce-Justice bill, I instituted my own reforms. I even went a step further. I established criteria that met community needs and must be supported by a viable organization, and it must have matching funds.

I have also fought and led the subcommittee in a more aggressive reform effort. I provided robust funding to inspectors general to be the watchdogs of the agencies. I am the first Senator on an appropriations subcommittee to insist that the inspector general testify at every one of my subcommittee hearings of an agency on issues relating to waste and abuse.

I established an early warning system on cost overruns, and then I reduced overhead by 10 percent by getting rid of lavish banquets and conferences and also cutting the amount that could be spent on tchotchke giveaways at the conferences they did have. That might sound like a small thing, but, my gosh, getting an inspector general there, we found all kinds of things under every rock where another couple million were hidden and we worked to get rid of that. We also got rid of things such as the $4 meatball or $66 for bagels for one person at a Department of Justice breakfast. So we said: Let's get rid of the folly, let's get rid of the fraud, let's into get into a more frugal atmosphere, and we were able to do this.

I would hope we could institutionalize these reforms. There are reforms we could put in place that are common sense, but it would enable colleagues to exercise their constitutional prerogative of not letting big bureaucracies and big government determine the destiny of our communities. I am always going to fight for Maryland. I am not here to defend earmarks, but I am here to defend my ability to help Maryland. So I oppose Coburn.

Coburn would have a moratorium for 3 years on appropriations bills, authorizing bills and tax bills. I oppose it because I do not think, first of all, it will reduce the Federal deficit; secondly, it takes away my constitutional power—the power of the purse that was given to Congress—to be able to help my constituents; and lastly but most of all, I wish to have every tool at my disposal to make sure big bureaucracies don't forget the little people who pay the taxes. So I hope we defeat Coburn.

At the same time, what I want to be able to do is stand on the side of reform. I can assure my colleagues, if Coburn is defeated, I will do everything in the institution to follow the leadership already established by Senator INOUYE—a real reformer—to further reform our process. Let's get rid of abuse, but let's not give away our ability to stand and fight for our constituents.

Let me close by giving a couple examples. The Port of Baltimore provides over 1,000 jobs. I want to be ready when those big ships come through the Panama Canal, so I have a dredging earmark in that makes my port fit for duty for the 21st century.

I also have another earmark in for Ocean City beach replenishment, which we have already done. It protects millions of dollars of real estate along Maryland's coast, where we generate over $10 billion in tourism.

I have also funded small projects but big in the hearts of my constituents, such as helping with the building of a children's hospice. Imagine having a child so sick they require hospice care. The least America can do and the least the Senate can do is to partner with families, the local government, and people at great institutions, such as hospice, to make sure children at the end stage of life have a place to be.

So do I fight for congressional projects? You bet I do. Has it made a difference in the lives and economy of Maryland? You bet it does. So we can have this moratorium, but I will predict we will be back 15 months from now to reinstate it. I say: Let's keep it, let's reform it, let's have a stronger economy, safer communities, and a more frugal government.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I wish to first acknowledge the Senator from Maryland and to say I appreciate her work in reforming the system of congressionally initiated projects.

I also wished to mention, before I get to my main topic today, which is the expiration of the volumetric ethanol excise tax, the important vote we are having this evening on food safety. As the Chair knows, coming from the State of Minnesota, we had three people who died during the last foodborne illness tragedy—the salmonella in peanut butter episode. One of those individuals included Shirley Ulmer, mother of Jeff Ulmer, who has worked so hard to get this bill passed, and we are hopeful we have finally gotten the votes to improve our food safety system, which hasn't been improved since the 1930s. Clearly, we have seen a lot of changes to our food supply since then, and so this is long overdue.

VOLUMETRIC ETHANOL EXCISE TAX

Ms. KLOBUCHAR. Mr. President, I rise to underscore the need to invest in homegrown energy and to reduce our dependence on foreign energy. Our Nation's ability to produce a reliable low-cost domestic source of energy is both an economic issue and a national security issue.

Two years ago, our Nation got a wake-up call. Gas prices exceeded $4 a gallon, even $5 in some places. It was a chilling reminder that the United States spends more than $400,000 per minute on foreign oil. That money is shipped out of our economy, adding to our enormous trade deficit and economic woes, and leaving us reliant on unstable parts of the world to meet our basic energy needs.

Some of our colleagues have called for the volumetric ethanol excise tax credit—known as VEETC—to expire at the end of December. This tax credit was created 5 years ago to help bring ethanol from our farms to our gas pumps. It has helped us start to invest in the farmers and the workers of the

Midwest instead of the oil cartels of the Mideast.

My colleagues talk about how we need to let the free market solve our dependence on foreign energy. Well, I wholly support free markets, but I say: Let's have a level playing field and let the best ideas succeed. I would like to know if my colleagues truly think there is a level playing field for those trying to compete with the oil industry. We have an oil industry that has received decades of government support. Yet we have an emerging biofuels industry, powered by American farmers, that is starting to grow the crops, to improve the ethanol that is finally displacing our demand for oil. Over the last few decades, more than $360 billion worth of taxpayer subsidies and loopholes have lined the pockets of oil companies. This is nearly 10 times greater than the investments we have made in homegrown biofuels. Meanwhile, in just the last 5 years, the top five oil companies recorded $560 billion in profits.

Since the ethanol tax credit was first adopted, it has helped the renewable fuels industry grow and grow not just with the same kind of renewable fuel but to begin to expand—as you know, from our home State of Minnesota—into cellulosic ethanol, into using water and, a better part of the process, into conserving water and into using all kinds of new ideas. But to pull the rug out from under this new growing industry, when it is competing against the big guys—against big oil—is the wrong thing to do. In our State alone, employment and economic output from the ethanol biofuels industry has doubled. This year's biofuels production in Minnesota is expected to exceed 1 billion gallons, employing nearly 8,400 people and creating an economic impact of more than $3 billion. Instead, do we want to give all those jobs to the Mideast, to give them to countries we don't even want to be doing business with?

Nationally, homegrown ethanol displaces about 5 percent of our oil consumption or about 350 million barrels. The ethanol industry employed nearly half a million Americans to produce the ethanol right here in our country. Letting this tax credit expire would almost certainly put thousands of jobs in jeopardy and would also increase our dependence on foreign oil, thereby hurting our national security. The oil spill in the gulf was a poignant reminder. Our addiction to oil comes with serious cost and it is time our Nation gets serious about investing in alternatives.

We didn't see a windmill blow up in the middle of a corn field. We didn't see an ethanol plant blowing up in the middle of a corn field.

Senators CONRAD and GRASSLEY have called for a 5-year extension of the ethanol tax credit, and I support their bipartisan legislation. Senator JOHNSON and I have introduced the Securing America's Future with Energy and Sustainable Technologies—the SAFEST Act—with similar provisions calling for an extension of the tax credit, but it also includes a strong renewable energy standard—something we need in this country and something Senator SNOWE and I have worked on.

I see Senator KERRY of Massachusetts is here. I was devoted last year to focusing on alternative energy and ways to focus on our homegrown energy industry. I know this ethanol tax credit will not always be necessary. That is why I have also been working to develop a new more cost-effective tax credit that would replace the existing VEETC credit and would more directly benefit and focus on the farmers who are growing our transportation fuel.

No one is denying we can improve the tax credit to make it even more effective with investments in alternative fuels, but the ethanol industry, the biofuels industry, and private investors with billions of dollars in capital need to know our Nation is serious about supporting alternative fuels. Are we going to pull the rug out from under them? Are we going to put our heads in the sand and send all that money instead to the Mideast?

Allowing this tax credit to expire before we can come up with a long-term agreement about how to continue to invest in homegrown energy would send the wrong signal to investors. Letting this tax credit expire with no replacement would say America is not serious about finding alternatives to oil and we are not serious about reducing our dependence on foreign energy.

Our Nation has an unemployment rate of 9.6 percent. To meet our basic fuel needs, we continue to send $730 million a day to foreign countries, many of which have been known to funnel money to terrorists. Now is not the time to pull that rug out from underneath the largest, most established domestic alternative to petroleum fuel. Now is not the time to put in jeopardy tens of thousands of jobs. Now is the time to extend the biofuels tax credit and invest in those farmers in the Midwest instead of those oil cartels in the Mideast. Now is the time to increase our support for alternative energy. These investments will help us to lower the unemployment rate, reduce the amount of money we send overseas to meet our energy needs, and these investments will help make our Nation less reliant on unfriendly nations—on those we don't want to be doing business with.

I hope my colleagues will listen to this argument and look at these numbers—at how much money the oil industry is getting.

I note the Senator from Massachusetts is here, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent to speak as in morning business for such time as I will consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEW START TREATY

Mr. KERRY. Mr. President, we are in what we all understand are very difficult times—challenging in every respect and certainly with respect to the national security concerns of the country. As we speak, American soldiers are fighting a war in Afghanistan, winding down a war in Iraq, and our Nation has young men and women in harm's way in many parts of the world, engaged in a persistent challenge against global terrorism. Iran's nuclear program continues to advance, and North Korea is building a uranium enrichment facility and provoking the south on a regular basis with its military aggression.

Every single one of these is a complex challenge without any easy solution. But in the middle of all these challenges, the Senate has been given an opportunity to actually reduce the dangers our country faces. We have been given an opportunity set an example for the world. We have been given an opportunity to make the decision that would help to put greater pressure on Iran, on North Korea or on any other country that might be contemplating the notion of moving toward nuclear weapons. The Senate has been given the opportunity in the next days to express the leadership of our country with respect to moving in the opposite direction—away from nuclear weapons to greater controls, greater accountability, greater security and safety for our people.

With one simple vote before we leave here in the next days, we could approve the New START treaty and make America and the world more secure and take an important step forward in leadership as we express to the world our sense of responsibility with respect to the challenge of nuclear weapons. That is the opportunity we have. The question before every Senator is going to be whether we come here in these next days to do the business of the American people, to do our constitutional responsibility to advise and consent to a treaty negotiated by the executive department of the country.

New START is, quite simply, a commonsense agreement to control the world's most dangerous weapons and enhance stability between the two countries that possess over 90 percent of them. Just think of the statement it makes to those countries contemplating where Iran may be going when the countries that possess 90 percent of these weapons begin to dismantle these weapons and provide intrusive verification steps between us for how we will both behave. What an important statement at this moment in time with respect to Iranian behavior, with respect to North Korean behavior, and what a completely opposite, irresponsible decision it would be if the Senate just got bogged down in politics and walked

away from this moment, unwilling to make that kind of decision that offers the leadership that I think the world and certainly the American people expect us to make.

This treaty will limit the number of nuclear weapons Russia can deploy to 1,550 warheads. What American who contemplates the nature of nuclear war and conflict and the potential damage of 1 weapon, 10 weapons, 20 weapons—what American does not understand the common sense of limiting Russia to 1,550 weapons pointing at the United States of America, some of them directly pointing at us even as I stand here and speak today?

This treaty will give us flexibility in deploying our own arsenal so we do not have to live by a strict restraint with respect to land or sea or air. We have flexibility in which weapons we want to put into which modality, and the verification provisions will significantly deepen our understanding of Russian forces. It has been almost a full year now since the original START treaty and its verification procedures expired. Every day since then, insight that treaty provided has been degrading.

New START does more than just restrain the weapons. It does more than just provide verification. It actually strengthens the relationship between the United States and Russia, and it enhances the global nonproliferation regime we signed up to years and years ago during the Cold War. It will improve our efforts to constrain Iran and, most important, to contain the loose nuclear materials we all fear could one day fall into the hands of terrorists and, if not result in a nuclear explosion, result in what we call a dirty bomb explosion where nuclear material is, in fact, scattered for want of the ability to create a nuclear weapon itself but with grave consequences of radioactive material doing enormous injury to large populations as a result. Already in the 7 months since we signed the New START, Russia has shown greater dedication to this renewed relationship. They have supported harsher sanctions against Iran. They have suspended the sale of the S–300 air defense system to Tehran.

The original START agreement which was the bedrock of the Nunn-Lugar Cooperative Threat Reduction Program, a program whereby we are currently reducing nuclear warheads with Russia and containing the nuclear material—one of the great contributions to nonproliferation of modern times—that is the most successful nonproliferation effort to date in which any country has engaged. That would be threatened if this START agreement does not pass. It is strengthened if the START agreement does pass.

Without the START treaty, the New START treaty—I think nobody expresses concern greater than Senator LUGAR. Senator LUGAR, a Republican Senator, has shown enormous leadership on this issue for years and years now. He is respected all across the globe by those people who follow these issues. He has expressed the urgency of passing this treaty now, in this Senate, in this Congress, in this session.

In summary, the New START helps the United States to lead other countries so we help each other to address the lingering dangers of the old nuclear age, and it gives us a very important set of tools in order to combat the threats of the new nuclear age. Indeed, the single most significant question being raised at this point in time is not about the substance of the treaty within the four corners of the treaty; it is about language external to the treaty with respect to whether it somehow might limit our missile defenses. All of us acknowledge that those missile defense investments we have made to date will go a long way toward helping us to be able to address the threat of rogue states.

Let me just say as unequivocally as I know how that there is nothing in this treaty—there is no way this treaty—there is no way the policies of this administration—there is no way any language that is formal or binding between our nations or any other language, in fact, binds the United States or restrains us from pursuing missile defense. The answer with respect to any question on missile defense in this treaty is, no, it unequivocally does not restrain America's ability to develop and deploy missile defense. What is more, the evidence of that was very clear in Lisbon just the other day where the President of the United States, together with European countries, publicly announced the procedure by which we are going forward to deploy a missile defense in Europe in order to deal with the rogue threat problem.

Let me be even more clear. With respect to the question of any limitation of missile defense, the Secretary of Defense, appointed by President George W. Bush, says no, there is no limitation on missile defense; the Chairman of the Joint Chiefs of Staff says no, there is no limitation on missile defense; the commander of our nuclear forces says no, no limitation on missile defense; the Director of the Missile Defense Agency says no, there is no limitation on missile defense. Again and again, senior military leaders have said unambiguously that this treaty does not limit our missile defense plans. So, in my judgment and the judgment of most people I know who reasonably approach this treaty, there is no issue of missile defense with respect to this treaty.

Now we are beginning to hear people say that maybe we do not have time, in the context of the lameduck session, to deal with this question of American leadership, this constitutional responsibility that ought properly to be executed by the Senate that has done all of the work on this treaty. There is in that statement about lack of time, to some degree, a sort of question: Maybe there are a whole bunch of issues out there that just have not been resolved. Let me try to deal with that for a moment because I wish to make it very clear that the New START treaty's inspection and evaluation and analysis process by the Senate and appropriate committees has been extensive and exhaustive.

I wish to make clear what the record says about the time we have to consider this treaty. The Senate has been working on this treaty for the past year and a half, ever since the negotiations first began.

Starting in June of 2009, the Foreign Relations Committee was briefed at least five times during the talks with the Russians. Senators from the Armed Services Committee, the Select Committee on Intelligence, the Senate's National Security Working Group—all of them took part in those briefings. That was an obligation of this Congress. This Congress was present during the briefings with the negotiators, this Congress was privy to those negotiations as they went along—something a future Congress could not be because the negotiations are over. That underscores even more why this is the Congress that is the appropriate Congress to deal with this treaty. Roughly 60 U.S. Senators, through those committees I named, were able to follow the negotiations in detail, and individual Senators had additional opportunities to meet with our negotiating team, and a delegation of Senators even traveled to Geneva in the fall of 2009 to meet with the negotiators. I might add that included Senator KYL, who has been one of the leading Senators on the other side involved in our discussions on this treaty. In other words, by the time the New START treaty was formally submitted to the Senate in May, the 111th Congress was already steeped in this, deeply steeped in this. No other Senate can now replicate the input we had into these negotiations.

Over the next 6 months after the Senate treaty was submitted, the Senate became even more immersed in the treaty's details through hearings, briefings, documents, and hundreds upon hundreds of questions that were submitted to the administration. Something like 900 questions were submitted to the administration, and all of them have been answered in full.

This Senate has done its homework on the New START treaty, and it is this Senate that has an obligation to complete the advice and consent on that treaty.

The fact is, there are also very important security reasons for us not to wait. Next Sunday, December 5, it will have been 1 year since the original START treaty expired—a whole year without on-the-ground inspections in Russia. Some people say it doesn't really make a difference whether it be a month or 2 months or whatever. I have to tell you something: When it comes to nuclear arsenals, every day matters. Without this treaty, we know

too little about the only arsenal in the world that has the potential to destroy the United States.

As James Clapper, the Director of National Intelligence, said—and he does not come to us with an opinion that is clouded by politics; he doesn't come to us as a Democrat or a Republican; he comes to us as a professional whose task it is to defend the security of our country and who has a lifetime career wearing the uniform of our Nation, defending our country—he says of ratifying New START, ''I think the earlier, the sooner, the better.''

One of our most solemn responsibilities is this responsibility of advice and consent. We have been through a tough political year. The American people, we all understand—Senators keep coming to the floor and referring to the anger. It is real. It is there. We know the American people are angry. But they are angry because the business of the country does not seem to get done. They are angry because they see a partisan food fight, a political food fight taking place instead of the serious business of our Nation.

I believe other countries are watching us to see whether we can fulfill our constitutional responsibilities. Just how well does this democracy we sell all over the world actually work? If we can't make it work here at home and we can't deliver now, what kind of a message does it send about the power of the United States to leverage its values and its interests in the challenging world we face today?

Every Senator has an obligation to ask that question of themselves over the course of these next days: Are we a credible partner? Can other nations rely on us? What happens when the President of the United States negotiates a treaty, and he comes back here and the rest of the world sees that treaty bogged down, not in the substance of the treaty but in the politics of the day?

With this vote we can demonstrate our resolve and our leadership, and we can demonstrate something about the quality of our democracy. I think the schedule of the Foreign Relations Committee shows good-faith efforts which we have applied to live up to the Senate's responsibility.

After the treaty was signed in April, Senator LUGAR and I worked together to set up a bipartisan review of the treaty. Never once did Senator LUGAR or I approach this in a partisan way. I am grateful to Senator LUGAR for his exceptional leadership and his willingness to stand up to some of the currents of the day and act on the interests of the country as he sees them.

Our primary consideration in the scheduling of witnesses before our committee was not whether they would support or oppose the treaty, we looked for expertise and we looked for experience. On April 29, the committee heard from Bill Perry, former Secretary of Defense, and Jim Schlesinger, former Secretary of Defense, Secretary of Energy, and Director of Central Intelligence.

These men recently led the congressionally mandated Strategic Posture Commission. They both said we should approve the New START treaty. Dr. Schlesinger said it is—this is the quote of Dr. Schlesinger, who served a Republican President—''obligatory''—that is his word—''obligatory for the United States to ratify New START.''

Dr. Perry told us this treaty advances American security objectives, particularly with respect to nuclear proliferation and nuclear terrorism. On May 18, the committee held a hearing with Secretary Clinton, Secretary Gates, and Admiral Mullen. Admiral Mullen told us the New START treaty ''has the full support of your uniformed military.''

Secretary Gates made clear the treaty will not constrain U.S. missile defense efforts. He said:

> From the very beginning of this process more than 40 years ago the Russians have hated missile defense. They do not want to devote the resources to it and so they try and stop us from doing it through political means. This treaty does not accomplish that for them.

That is what Secretary Gates said. The next day, former Secretary of State Jim Baker, who helped negotiate START I and helped negotiate START II, said that the New START ''appears to take our country in a direction that can enhance our national security while at the same time reducing the number of nuclear warheads on the planet.''

A week later, on May 25, Henry Kissinger recommended ratification of the treaty. He also cautioned us that rejection of the treaty would, in his words, have an ''unsettling impact'' on the international environment.

We also heard from two former National Security Advisers; Stephen Hadley, who served under George W. Bush, who told us the treaty is ''a modest but nonetheless useful contribution to the security of the United States and to international security''; and Brent Scowcroft, who served under George H.W. Bush, said he supports the treaty and he told us the New START does not restrict our missile defense plans. He said the Russian unilateral statement was simply an issue of ''domestic politics for the Russians.''

So we heard from some of the most eminent statesmen this country has produced, Republicans and Democrats, with decades and decades of public service. They said we should approve this treaty. In all, six former Secretaries of State, five former Secretaries of Defense, the Chair and Vice Chair of the 9/11 Commission, and numerous other distinguished Americans have said it is important we approve New START.

On July 14, seven former heads of the U.S. Strategic Command and Strategic Air Command sent the committee a letter urging approval of the treaty. Indeed, some of the strongest support for this treaty has come from the military, which unanimously supports the treaty. On June 16, I chaired a hearing on the U.S. nuclear posture, modernization of the nuclear weapons complex, and our missile defense plans.

GEN Kevin Chilton, commander of the U.S. Strategic Command, which is responsible for overseeing our nuclear deterrence, explained why the military supports the New START. He said:

> If we don't get the treaty, A, the Russians are not constrained in their development of force structure, and, B, we have no insight into what they are doing. So it is the worst of both possible worlds.

Again, the commander of the U.S. Strategic Command says not ratifying this treaty is the worst of both possible worlds. And LTG Patrick O'Reilly, who heads the Missile Defense Agency, told us the New START does not limit our missile defense plans.

> I have briefed the Russians, personally in Moscow, on every aspect of our missile defense development. I believe they understand what that is. And that these plans for development are not limited by this Treaty.

In other words, the Russians know what we intend to do and they signed the treaty, nonetheless.

On July 14, the committee had a closed hearing on monitoring and verification of treaty compliance with senior officials from the intelligence community. Obviously, that was a highly classified briefing. But every Senator is welcome to go down to the Office of Senate Security and read the transcript of that hearing, which I suspect will stay there and not appear in WikiLeaks.

If my colleagues want a public statement on verification, I would once again cite what James Clapper, the Director of National Intelligence, said last week about ratifying the New START treaty:

> I think the earlier, the sooner, the better. You know the thing is, from an intelligence perspective only—

This is General Clapper's perspective—

> are we better off with it or without it? We're better off with it.

The committee also heard testimony from the directors of the Nation's three nuclear laboratories. As we all know, much of the debate on the treaty has focused on the resources that are needed to sustain our nuclear deterrent and modernize our nuclear weapons infrastructure, and it was important for our committee to hear from the responsible officials directly. They praised the Obama administration's budget request for this fiscal year. I suspect my colleague from North Dakota, in a few minutes, will have something to say about that additional funding for the nuclear modernization program and the plan of action that has been outlined.

I will simply say, again and again, the administration has bent over backward to work in good faith openly and accountably with Senator KYL. I have been part of those discussions all

along. I think we have acted in good faith to try to meet the needs—so much so that we put money into the continuing resolution a few months ago, in order to show our good faith for this effort to try to produce the modernization funding as we go forward.

In all, the Foreign Relations Committee conducted 12 open and classified hearings, featuring more than 20 witnesses. The Armed Services and Intelligence Committees held more than eight hearings and classified briefings of their own. We did not stack the deck with Democrats. In fact, most of the former officials who testified were Republicans. Even the executive branch witnesses included several holdovers from the last administration—Secretary Gates, Admiral Mullen, General Chilton, Lieutenant General O'Reilly—all originally appointed to their posts by President Bush.

Overwhelmingly, these witnesses supported timely ratification of the New START treaty. As I have said, some of the strongest endorsements came from America's military leaders. The combined wisdom of our current and former military and civilian leaders, accumulated over decades in service, not to political parties but in service to the Nation as a whole, was clear: All of them said this treaty should be ratified.

Over the summer, the committee also reviewed a number of important documents, including a National Intelligence Estimate, assessing the U.S. capability to monitor compliance with the terms of the New START, a State Department report assessing international compliance with arms control agreements, including Russia's compliance with the original START, the State Department's analysis of the New START's verifiability, a classified summary of discussions during the treaty negotiations on the issue of missile defense.

By the end of July, the Foreign Relations Committee had compiled an extensive record. We could have reported the treaty out of committee then. We had the votes. I was prepared to move forward, but because some Republican Senators knew we were prepared to move forward, they came and asked for more time to review the treaty and to look at the testimony and the documents we had gathered.

So, in August, in direct response to this Republican request, I made a decision as chairman to postpone for 6 weeks, over the course of the August recess, until after that so Members would have more time to review the record, as the Republicans requested. Frankly, the treaty, I have said again and again, is too important to get caught up in partisan politics, so I thought it was very important not to allow anybody to say we were rushing it.

We gave that additional time, even though we had the votes. We came back afterwards and we dealt with each and every one of the concerns that were raised in good faith. Frankly, it is important to have reciprocal good faith in the workings of the Senate. Over the next 6 weeks, I encouraged Senators to contact Senator LUGAR and me with their comments on a draft resolution of ratification. In discussions with Senator LUGAR, Senator CORKER, Senator ISAKSON, I made it clear we welcomed and needed their input and, indeed, we got their input.

At the same time, the Armed Services and Intelligence Committees were wrapping up their work on the treaty. Senators LEVIN and MCCAIN each wrote to the Foreign Relations Committee with their views on the treaty, as did Senators FEINSTEIN and BOND from the Intelligence Committee.

We received the answers to several outstanding questions Senators had posed to the administration. In all, over the past 7 months, Senators formally submitted some 900 questions to the Obama administration, and they have received thorough responses to every one of them.

By mid-September, our bipartisan work produced a resolution of ratification we should all be able to support. Our review process was not designed to cheerlead for the treaty. It was designed to probe every aspect of the treaty and to come up with a resolution that provided the Senate's input and protected the prerogatives of the Senate and, indeed, of individual Senator's points of views. That is what we have done. At 28 pages, the resolution of ratification—including 13 conditions, 3 understandings, 10 declarations—addresses every serious topic we have discussed over these months. If a Senator was worried about the treaty and missile defense, then condition (5), understanding (1), and declarations (1) and (2) addressed those issues.

If they were worried about modernization of our nuclear weapons complex and strategic delivery vehicles, then condition (9) and declaration (13) addressed those concerns.

If they were worried about conventional prompt global strike capabilities, then conditions (6) and (7), understanding (3) and declaration (3) addressed those.

Worried about tactical nuclear weapons? Well, that is in there. Verifying Russian compliance? It is in there. Even the concern that was raised about rail-mobile missiles was fully addressed in the resolution of ratification.

In short, the resolution is the product of careful, bipartisan deliberation and collaboration intended to address each of the concerns that was raised. That does not mean the resolution is perfect. It does not mean it could not possibly be further improved. But in the past weeks, I have been reaching out to colleagues to get additional ideas. I will be happy to consider any germane amendment that colleagues might propose. But the only way to do that is by having the floor debate on this treaty.

With the Senate now back in session, there are 33 days before the end of the year. All of us would obviously not like to repeat what happened last year and not be here right up until Christmas Eve. But there is plenty of time in the next 3 weeks for debate.

Look at the record. The original START agreement was a far more dramatic treaty than the New START because its cuts were sharper and because the Soviet Union had just collapsed, leaving tremendous uncertainty in its wake. Yet the full Senate needed only 5 days of floor time before it approved that treaty, by a vote of 93 to 6, a far more complicated and far more provocative, if you will, treaty at that time.

The START II treaty took only 2 days on the floor in the Senate before it was approved by a vote of 87 to 4.

So leave the precedent aside for a moment. When it comes to protecting our national security, the American people expect us to make time. That is exactly what we are prepared to do.

We are prepared to work around the clock. If time is the only concern, then we have no concerns. Given the time that it took to consider past treaties, it is clear we can do this. We are not new to this business. We are not new to this treaty. We could get this done if there is a will to do so. I know some Senators still worry about the administration's plans with respect to modernization of the nuclear weapons complex. That is not directly within the four corners of the treaty, but I understand their concern. So let's review the work very quickly that has been done there.

The Obama administration proposed spending $80 billion over the next 10 years. That is a 15-percent increase over the baseline budget, even after accounting for inflation. It is much more than was spent during the Bush administration's 8 years. Still some Senators have concerns.

On September 15, the Vice President assured our committee that the 10-year plan would be updated and a revised 2012 budget figure would be provided this fall. In the meantime, because I believed that the nuclear weapons program ought to be adequately funded, I worked with other colleagues—with the leader and Senators DORGAN and INOUYE—to guarantee that an anomaly in the continuing resolution that we passed in October provided an additional $100 million for the past 2 months. It ensured that we would get the updated figures from the administration. The administration has now provided those figures. It is asking for an additional $5 billion over the next 10 years.

I remind colleagues that according to the resolution of ratification, if any of this funding does not materialize in future years, the President will be required to report to Congress as to how he is going to address the shortfall. But if the Senate does not now approve the ratification of the New START, it will become increasingly difficult without

any requirement for a report, and it will become increasingly difficult to provide that funding. That is a solid reason why we ought to get this done now.

Ultimately, bottom line, we need to approve this treaty because it is critical to the security of our country. It is better to have fewer nuclear weapons aimed at the United States. It is better to have the right to inspect Russian facilities. It is better to have Russia as an ally in our efforts to contain Iran and North Korea and in order to deal with the global proliferation challenge. Our military thinks it is better to have these things. If any of my colleagues disagree, let them make their case to the full Senate. That is the way it is supposed to work around here. Let them make their case to the American people. If the American people said anything in this election year, it is that Congress needs to get down to the real business of our Nation. If the national security of our Nation is not the real business, I don't know what is. They have asked us to protect American interests. By ratifying this treaty, we will do so.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Senator from Massachusetts. Senator KERRY, as chairman of the committee, has done an extraordinary job. I also mention Senator LUGAR and others who have worked very hard on the issue of the ratification of the START treaty. I was a member of the Senate National Security Working Group, and the Administration kept us informed all along the way during the negotiations with the Russians. We had meetings in various locations and were briefed by the negotiators who described to us what the negotiations were about, what the progress was, and so on. Some of my colleagues from this Chamber who were a part of that National Security Working Group came to the meetings. We all had an opportunity to ask a lot of questions. It is not as if someone just dropped on the Senate some package called the START treaty. We have been a part of that all along and have been a part of having discussions and descriptions of the work of this treaty for some long while.

I wish to go through a couple of things today. First, some colleagues have decided we should not proceed with the ratification of this new arms reduction treaty that we have negotiated with the Russians. Some have alleged that there are all kinds of difficulties with it. They say it would limit our ability to produce and deploy an antiballistic missile. That is not the case. It is not accurate. They are suggesting that our modernization program of existing nuclear weapons or the lifetime extension programs for existing nuclear weapons is not funded sufficiently, and that is not the case. They indicate it would not meet our national security requirements to go ahead with this treaty.

Let me describe what some very distinguished Americans who would know about this have said. The Chairman of the Joint Chiefs, Admiral Mike Mullen, said: I, as well as our combatant commanders around the world, stand solidly behind this new treaty.

That is from the Chairman of Joint Chiefs of Staff.

This is General Chilton, commander of the Strategic Command that is in charge of our nuclear weapons. He says:

> The United States strategic command was closely consulted throughout the development of the nuclear posture review and during negotiations on the new strategic arms reduction treaty. . . .
>
> What we negotiated is absolutely acceptable to the United States strategic command for what we need to do to provide a deterrent for the country.

This chart pictures former nuclear commanders who support this treaty: Generals Davis, Welch, Chain, and Butler, Admiral Chiles, General Habiger, Admiral Ellis. I have worked with many of these folks, and they are very respected. All of them believe this treaty is the right thing for this country and its security.

Dr. Henry Kissinger says:

> It should be noted I come from the hawkish side of this debate so I'm not here advocating these measures in the abstract. I try to build them into my perception of the national interest. I recommend ratification of this treaty.

This chart shows America's most prominent national security experts who support this New START treaty, Republicans and Democrats, the most significant thinkers about foreign policy in this country today. They say they support this treaty and what it means to the country.

Some have said there is not enough funding for our modernization program for existing nuclear weapons or for the lifetime extension program for existing nuclear weapons, and that would be a problem. They are wrong about that. Let me describe what Linton Brooks, the former NNSA administrator in charge of these areas, nuclear weapons and the modernization and the lifetime extension programs, says, someone who served under the Bush administration in that role:

> As I understand it, it is a good idea on its own merits, but I think for those who think it is only a good idea if you only have a strong weapons program, this budget ought to take care of that. Coupled with the outyear projections, it takes care of the concerns about the complex and it does very good things about the stockpile. And it should keep the labs healthy.

Then he said:

> I would have killed for this budget.

This is from the man who headed NNSA during the Bush administration.

Let me go through the issue of spending because one of the principal concerns has been we are not spending enough money on the existing nuclear weapons stockpile. There are roughly 25,000 nuclear weapons in this world. With respect to our portion of those nuclear weapons, we modernize them. We have life extension programs to make certain they can be certified as workable nuclear weapons, notwithstanding the fact that we don't ever want to have to see that one works because it seems to me the explosion of a nuclear weapon in a major city will change everything in the future. But, nonetheless, we have a certification program. We spend a great deal of money modernizing and keeping up to date with lifetime extension programs, the existing stock of nuclear weapons.

I chair the appropriations subcommittee that funds the nuclear weapons stockpile among other things. The Appropriations Committee considered a request from the President this year for $7 billion for these weapons programs. In my subcommittee, which does a lot of things—energy and water programs and nuclear weapons—almost everything else was either flatlined or reduced. But nuclear weapons was increased substantially. The $7 billion the President requested was a 10-percent increase over the previous year. Some of my colleagues have said that leaves us way short of what we need.

That $7 billion was put into the continuing resolution in November. There wasn't much discussion of that. So while virtually all other functions of government will continue to function at last year's appropriations level, the nuclear NNSA, nuclear weapons function, will be able to spend at the new funding level of $7 billion, up 10 percent from the previous year.

Let me also describe what has happened with respect to fiscal years 2011 to 2015. The President's budget plan for those years provided $5.4 billion above the previous plan. So this President has proposed generous appropriations to make certain that modernization and the life extension programs of existing nuclear weapons is funded well. I mentioned it went to $7 billion.

Now, in November, the President sent a report to Congress which reported that he plans to request $7.6 billion for the year 2012. That is a $600 million increase over 2011 which was a $600 million increase over 2010. Overall, the request in this new report is a $4.1 billion increase over the baseline during 2012 to 2016. So then we will be spending $85 billion in the 10-year period, $85 billion on modernization of our current nuclear stockpile and the life extension program in our current nuclear stockpile, and even that is not enough. We are told that is not nearly enough money.

How much is enough? If we can certify the stockpile works and the stockpile provides a deterrent, how much is enough? This President has robustly funded the requests that were needed. Now we are told not nearly enough money has been appropriated.

By the way, those who are saying this are saying we need to substantially cut Federal spending and reduce

the Federal budget deficit. Very interesting.

Let me relate, as I have in the past, something that happened over 9 years ago to describe the importance of this subject. On 9/11/2001, this country was attacked. One month later, October 11, 2001, there was a report by a CIA agent code named Dragonfire. One of our agents had a report that said there was a nuclear weapon smuggled into New York, a 10-kiloton Russian nuclear weapon stolen and smuggled into New York by terrorists to be detonated. That was 1 month to the day after 9/11. That report from the CIA agent caused apoplexy among the entire national security community. It was not public at that point. It was not made public.

After about a month, they decided that it was perhaps not a credible piece of intelligence. But when they did the post mortem, they discovered that clearly someone could have stolen a Russian nuclear weapon, perhaps a 10-kiloton weapon, and could have smuggled it into New York City. A terrorist group could have detonated it, and a couple hundred thousand people could have perished—one stolen nuclear weapon. There are 25,000 of them on the planet—25,000.

The question is, Do these agreements matter? Do they make a difference? Of course, they do. The fact is, nuclear arms agreements have made a very big difference.

I have had in the drawer of my desk for a long period a couple of things I would like unanimous consent to show.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. This is a piece of metal from a Soviet Backfire bomber. We didn't shoot this bomber down. It was sawed off. They sawed the wings off this bomber. They did it because we paid for it under the Nunn-Lugar agreement in which we have actually reduced nuclear weapons, both delivery vehicles and nuclear weapons.

So I have in my desk a piece of a Soviet bomber that had its wings sheared off because of a US-Russian agreement, and that delivery system is gone. I have a hinge that was on a silo in Ukraine for a missile that had on it a nuclear weapon aimed at this country. Well, that missile is now gone. I have the hinge in my hand. That missile that held a nuclear warhead aimed at America is gone. In its place on that field are sunflowers—sunflowers—not missiles.

I have in this desk as well some copper wire that was ground up from a Soviet submarine that was dismantled as a result of a US-Russian arms control agreement. These agreements work. We know they work. We have reduced the number of delivery vehicles; yes, submarines, bombers, missiles. We have reduced the number of nuclear weapons. This agreement will further reduce the number of nuclear weapons.

Now, if it is not the responsibility of our country to begin addressing the ability to stop the spread of nuclear weapons and to reduce the number of nuclear weapons on the face of this Earth, then whose responsibility is it? It is clearly our responsibility to shoulder that leadership. One important element of that is when we negotiate these kinds of treaties, arms reduction treaties, that virtually everyone—Republicans and Democrats who know anything at all about national security and about arms reduction agreements—has said makes sense for our country, when we do that, it seems to me we ought not have the same old thing on the floor of the Senate, and this ought not be a part of gridlock.

This is a negotiation between our country and Russia with respect to reducing delivery vehicles and reducing nuclear weapons. The National Security Working Group, of which I was a member—and a number of my colleagues were members—met in this Capitol Building, and we were briefed and briefed and briefed again by those who were negotiating this treaty. This is not a surprise. There is nothing surprising here. In my judgment, this Senate should, in this month, do what is necessary to have the debate and ratify this treaty.

Again, let my say, this President sent to the Congress a budget request that had ample and robust funding, with a 10-percent increase for modernization and life extension programs for our nuclear weapons. I know that because I chaired the committee that put in the money at the President's request.

Then, because of those who believed you had to have the extra money for the nuclear weapons program, that money was put in a continuing resolution so that program goes ahead with a 10-percent increase, while the rest of the Federal Government goes on at last year's level. I did not object to that. But I do object when they say there is not ample funding here—a 10-percent increase this year, a 10-percent increase next year. Testimony by everyone who knows about these weapons programs, the cost of them and the effectiveness of these treaties, ought to be demonstration enough for us to do our job and to do our job right.

We have a lot of important issues in front of us. I understand that. But all of these issues will pale by comparison if we do not find a way to get our arms around this question of stopping the spread of nuclear weapons and reducing the number of nuclear weapons. If one, God forbid—one—nuclear weapon is exploded in a city on this planet, life on this planet will change.

So the question of whether we assume the responsibility of leadership—whether we are willing to assume that responsibility—will determine in large part, it seems to me, about our future and about whether we will have a world in which we systematically and consistently reduce the number of nuclear weapons and therefore reduce the threat of nuclear weapons in the future.

I do hope my colleagues—and, by the way, I do not suggest they are operating in bad faith at all. But some of my colleagues have insisted—insisted—there is not enough funding. It is just not the case. The demonstration is clear. It is the one area that has had consistent, robust increases in funding, requested by this President, and complied with by this Congress, and now even advance funding through the continuing resolution. It seems to me it is time to take yes for an answer on the question of funding, and let's move ahead and debate this treaty and do what this country has a responsibility to do: ratify this treaty, and do it soon.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FDA FOOD SAFETY MODERNIZATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 510, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 510) to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

Pending:

Reid (for Harkin) amendment No. 4715, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNS. Mr. President, I do not see Senator BAUCUS in the Chamber, so I will go ahead and get started. My understanding is we will be going back and forth. So I will finish my opening remarks, and then if he arrives I will yield to him.

In just a few hours Senators are going to have a distinct choice. Two amendments will be offered to repeal what I think we have all come to regard as a very nonsensical tax paperwork mandate that was included in the health care reform bill.

There is broad agreement the 1099 repeal is necessary to remove Federal roadblocks to job creation. But today we have a choice on the two amendments. Today's choice comes down to what I regard as a very straightforward choice, a choice relative to fiscal responsibility, and it is illustrated by the chart I have in the Chamber.

My amendment fully offsets the cost of the 1099 repeal. The alternative Baucus amendment piles $19 billion of debt onto the backs of future generations. The irony of this is just unmistakable. On one hand, we have a provision in the health care law that we have all come to regard as crazy, foolishness. Even the President has said it does not make any sense—or words to that effect.

On one hand, to repeal it, we are adding to the debt of future generations.

On the other hand, my amendment fully offsets that cost.

Americans have sounded an alarm regarding Washington's out-of-control spending. They demand we address what is a huge $14 trillion debt. They look at their Federal Government in disbelief when they see Washington continuing to spend money we simply do not have.

Yet the alternative amendment proposes to do more of the same. It does not have a single offset. It simply passes the buck, and in this case it passes the buck to our children and grandchildren.

Now, both amendments, as you can see from the chart, repeal the 1099 requirement. But in the case of the Johanns amendment, it repeals the 1099 requirement without adding a single penny to our deficit or to the cost of the health care bill.

It also has taken care of the issue of the controversial offsets. As my colleagues remember, I listened in September when many came up to me and said: Look, I am with you on repealing this 1099 provision. My small businesses are asking me to get it repealed. But I just cannot go along with your offsets. Well, my new 1099 amendment uses unspent and unobligated funds from Federal accounts to fully pay for the repeal.

At the end of every year, there is money left in the accounts of Federal agencies that is not obligated. As someone who was a Cabinet official in a previous life, I can tell you that occurs. My amendment boils down to using about 5 percent of these funds—5 percent.

Additionally, the amendment I am offering gives the Office of Management and Budget the ability to decide what programs to pull funds from and in what amounts. This approach is far better than an across-the-board cut, and it allows important programs to continue to be funded.

Some are probably going to argue: Whoa, this is historic. This has never been done before. But I want to assure my colleagues, it has been done repeatedly.

If my colleagues choose the alternative amendment in a few hours, then the public demand for fiscal responsibility will have fallen on deaf ears. In September, when the Senate first voted down my 1099 amendment, the concern was about the source of the offsets. It was the health care bill, and many said to me: Look, I am with you, but I cannot go along with these offsets. So we changed them. But back then, no one—no one—argued that we simply did not need to pay for the repeal. No one argued that. Yet today the Baucus alternative amendment proposes no payfors, adding $19 billion to the national debt, without a dime of budgetary offsets.

So after all the hoopla about pay as you go, there is not a single budgetary offset to cover the cost of this amendment. So I urge all of my colleagues to vote for the fully offset Johanns amendment. It will be a vote to protect our job creators. It will be a bipartisan vote because we have all come to agree that this 1099 provision does not make any sense. And, most importantly, when we talk to our constituents about how we did this, we will be able to clearly tell them we paid for it, we took care of the cost of repealing the 1099 amendment with offsets that were a compromise to try to get this done and get this behind us.

Several of my colleagues also want to speak on this issue, so I am going to yield 5 minutes of my time to Senator ENZI, followed by 5 minutes to Senator THUNE, 5 minutes to Senator BROWN, and 5 minutes to Senator HUTCHISON. So I yield to Senator ENZI.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today to speak about the Johanns amendment that would repeal a provision in the health care reform law that, if not repealed today, will impose significant burdens on small businesses across this country.

Repealing this provision has the support of many of my colleagues on both sides of the aisle. Even the President has commented that this provision is onerous on small businesses and warrants immediate adjustment.

Starting in 2012, the new health care law will require that all businesses purchasing $600 or more in property or services from another entity, including corporations, must provide the vendor and the Internal Revenue Service with a tax information return. This new government mandate will impose significant burdens on both small and large businesses, and taxpayers' costs will increase as a result of accumulating the information and preparing the tax forms necessary to comply with this expanded mandate.

Imagine if you are a freelance writer and you buy a new laptop. Well, now you have to send form 1099 to Apple and to the IRS or be labeled a tax cheat. Oh, and you will need the Apple taxpayer identification number too, so do not forget to ask the salesman for that.

This new reporting requirement hits small businesses hardest because they typically do not have in-house accounting departments and have to hire outside help. Every penny a small business spends on these services is money they cannot spend on hiring new workers and expanding their business. Every hour a small business owner spends filling out these new tax forms is time he or she is not making a sale, manufacturing a product, or working with a customer.

I understand the challenges this can create for small business. Before I came to the Senate, my wife and I owned shoe stores in Wyoming. When you own a small business, you have to be the CEO, the bookkeeper, the salesman, and the person who cleans the bathroom.

Every hour I spent filling out government-mandated paperwork was an hour I could not spend selling shoes. Government mandates such as the new 1099 requirement have a real cost, and it is small businesses that will end up having to pay them.

This new 1099 reporting requirement is just one of many things in the new health care reform law that need to be reexamined immediately. Our small businesses need to be focused on creating jobs and helping our economy recover, not spending countless hours on new government paperwork burdens.

We all would do well to remember the claims of the sponsors of the health care reform law who said this new law would actually reduce the Federal deficit. Most Americans didn't believe those claims when they were made, and today they are seeing the first evidence of their falsity.

Today, when confronted with the nationwide opposition to this ill-conceived expanded information reporting policy, one of the leading proponents of the new health care law in the Senate is offering an amendment that will eliminate it, but it eliminates the revenues it produces. More importantly, his amendment makes no attempt to pay for the lost revenues. That means his amendment will further increase the Federal deficit.

While this may be the first time we see this, it certainly will not be the last. The funding for the entire health care law was built on a fiction of cost estimates and actuarial assumptions. As each of these provisions confronts the harsh reality of the light of day, we will see more and more of these provisions undone in the coming years. When millions of seniors across the country lose existing Medicare benefits and face escalating out-of-pocket costs, there will be an urgent push to restore these benefits. When hospitals, nursing homes, and home health agencies begin to close their doors because Medicare payment rates cause them to operate at a loss, Congress will move to undo those cuts, at a cost to the deficit. When the new insurance benefits are slashed as a result of formula gimmicks that will force automatic reductions in benefits, I suspect many of the supporters of the new law will argue for the urgent necessity of delaying these cuts.

We can make a statement right now to America's small businesses that we want them creating more jobs, hiring new employees, and growing their businesses—not worrying about what Washington will require of them next. Let's tell our small business men and women that we stand behind them, not on top of their backs, and let's repeal this new tax paperwork burden in a fiscally responsible way.

Mr. President, I yield the floor and reserve the remainder of the time.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, at 6:30 this evening, the Senate will vote on

the motion to invoke cloture on the substitute amendment to the food safety bill. Under a previous order, once cloture is invoked, there was to be up to 60 minutes of debate on competing motions to suspend rule XXII offered by Senator JOHANNS and myself. I understand that the two leaders intend to propound an agreement that would provide for the Senate to vote on our two motions immediately after the cloture vote this evening. So Senators should be on notice that there may be three back-to-back votes beginning at 6:30.

The Senator from Nebraska and I share a common goal. We both want to repeal some IRS reporting requirements scheduled to take effect in the year 2012. Each of our two motions would allow consideration of an amendment to prevent the expansion of those IRS reporting rules. Thus, each of our two amendments would help small businesses across America. How? By repealing these burdensome paperwork requirements.

But there are two big differences between our two amendments. First, my alternative is especially friendly to small businesses. It takes extra measures to permit the IRS to waive certain duplicative reporting requirements that small businesses now must experience; that is, the small businesses that use credit cards to pay their bills. My alternative goes further and gives more relief to small businesses. Second, our two versions differ as far as paying for the change. The alternative offered by my colleague from Nebraska would give the unelected Director of OMB unprecedented authority to slash spending all on his own. The Johanns alternative would thus abdicate Congress's responsibility over the budget. For these reasons, I urge my colleagues to oppose the Johanns amendment and support my alternative.

First, let me talk about what we have in common. Each of our two amendments is designed to get rid of a set of rules that requires reporting to the IRS. Many have referred to these rules as the ''1099 provision.'' That is because these new rules would require filing more IRS forms numbered 1099. These rules would impose new paperwork burdens and costs on small businesses, and these burdens would fall on small businesses just as they are struggling to emerge from the great recession. The new rules expand existing information reporting to the IRS to include payments that businesses make to corporations and payments they make for goods and property.

As I travel around my home State of Montana, I listen to small business owners such as Darrell Keck. Darrell owns the Dixie Inn in Shelby, MT. Darrell and his wife Jeanne run a tight ship. They are hard working. They pay their taxes. Darrell told me that he and his wife just do not have the manpower or the software to make the new reporting rules work. And Darrell and his wife Jeanne run just one business of the many mom-and-pop businesses in Montana that have told me this. I daresay most of the Members of this body hear the same things I hear as they travel. I have listened to small businesses. I have heard them. I am responding to small businesses by offering this amendment. My amendment would fully repeal the new reporting requirements—fully.

My amendment also responds to the concerns of owners of rental property. Some of these owners were concerned about their ability to comply with new rental expense information reporting rules included in the small business bill which Congress enacted just this last September. My amendment would scale back those rules. My amendment would apply the same rules to rental expense reporting as would apply to all businesses.

Now let me turn to the differences between my amendment and the Johanns amendment.

First, my amendment includes another feature that would further reduce the paperwork burdens on small businesses. My amendment would grant the Secretary of the Treasury the authority to issue regulations to avoid duplicative reporting. The Treasury has issued guidance under similar authority to allow small businesses that use credit cards to forgo reporting expenses they pay with their credit cards. Under this new guidance, to the extent small businesses use their credit cards to pay service vendors, they would actually have even less compliance burden than they did under the old law; that is, before the new requirement.

The competing amendment offered by my colleague from Nebraska would repeal the Treasury's authority to make rules to avoid duplicative reporting. It would repeal it. Doing so would thus risk placing undue and unnecessary paperwork burdens on small businesses that use credit cards to pay their bills.

So my alternative is especially friendly to small businesses. It takes extra measures to permit the IRS to waive duplicative reporting, especially those requirements for small businesses that use credit cards.

The second main difference between our two amendments is the offset in the Johanns amendment—and this is a big one. The Joint Tax Committee estimates that the tax law changes in the Johanns amendment would cost about $22 billion.

The Johanns amendment also includes a cut of $39 billion in appropriated funds, to be determined by the Office of Management and Budget. The Johanns amendment cuts about twice what it needs to do to pay for the repeal of the reporting requirements. As a matter of dollars and cents, the Johanns amendment is mostly about cutting appropriated spending. That is what it really is. So it is not about repealing the reporting requirement. To make these spending cuts, the Johanns amendment would give the unelected Director of OMB unprecedented authority to determine the source of this funding, and that would abdicate congressional responsibility over the budget.

The Joint Tax Committee estimates that my amendment would cost about $19 billion. That is a little less than the tax part of the Johanns amendment. But my amendment does not include an offset. These days, finding a $19 billion offset that can get 67 votes is pretty close to impossible. We have spent much of this year haggling over one offset or another. My amendment tries to avoid that.

We are talking about a paperwork requirement that has not yet even taken effect and, in fact, will not take effect, if not repealed, until the year 2012. Let's just repeal this reporting requirement. Let's just get it done. Let's just repeal it lock, stock, and barrel. Let's just get it done and not do all of these extra, other things which really are not good policy.

The IRS has used form 1099 for decades to better track income, but the new reporting rules just went too far. The time that it spends for small businesses to comply with the new rules far exceeds any benefit.

Especially in these tough economic times, now is not the time to put additional stress on small businesses to meet complicated government rules. Rather, now is the time to eliminate this paperwork burden. Small businesses are the backbone of the American economy. That is especially true in Montana. In Montana, a greater share of workers work in small businesses than in any other State in the country—a greater proportion than in any other State in the country. Business owners need to focus their efforts on growing their businesses and creating jobs, not filling out paperwork.

Small businesses in Montana and across America want to comply with tax laws, but these new rules stretch their ability to do that. It just went too far. I urge my colleagues to support their full repeal. But let's not hand over a blank check to the OMB Director to slash $39 billion wherever he wants. That part of the Johanns amendment also goes too far. So I urge my colleagues to help small businesses. I urge my colleagues to avoid sweeping delegations of power to an unelected OMB Director. Thus, I urge my colleagues to oppose the Johanns amendment and support the Baucus amendment when it comes up for a vote this evening.

Mr. President, I have a unanimous consent request which I understand has been cleared on both sides.

I ask unanimous consent that the agreement with respect to S. 510 be modified as follows:

That after the cloture vote at 6:30 p.m. today, and if cloture is invoked, then all debate time with respect to the Johanns and Baucus motions be considered expired; Senator JOHANNS be recognized to offer his motion to suspend; that once the motion has been

made, Senator BAUCUS then be recognized to offer his motion to suspend; that once made, the Senate then proceed to vote with respect to the Johanns amendment to suspend; that upon disposition of that motion, the Senate then proceed to vote with respect to the Baucus motion to suspend; that upon disposition of those two motions, Senator COBURN then be recognized as provided for under the order of November 18 and 19; that all debate time with respect to the Coburn motion be utilized during today's session; that at 9 a.m. Tuesday, November 30, after the prayer and the pledge and any leader time, the Senate then resume consideration of S. 510 with 2 minutes of debate, equally divided and controlled between Senators COBURN and INOUYE, prior to the vote in relation to the Coburn motion regarding earmarks, No. 4697; that upon disposition of that motion, there be 2 minutes of debate equally divided and controlled in the usual form; that the Senate then proceed to vote with respect to the Coburn motion regarding the substitute amendment No. 4696; further, that any other provisions of the previous order remain in effect; provided further that prior to passage of the bill, the Budget Committee pay-go statement be read into the record; further, that after the first vote today and tomorrow, the succeeding votes be limited to 10 minutes each; and that prior to the succeeding votes tonight, there be 2 minutes equally divided and controlled in the usual form.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INHOFE. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my intention that I be heard tonight concerning some of the amendments to be voted on tomorrow. It is my understanding further that Senator ENZI from Wyoming has the time between 5:30 and 6 o'clock. I request that I be recognized for 15 minutes during that timeframe.

Mr. BAUCUS. Reserving the right to object, Mr. President, may I further amend that request to provide that after the swearing in of Senator-elect KIRK, the time be equally divided until 6:30 p.m. this evening, and that the Senator from Oklahoma be recognized to speak for 15 minutes, and the time to be divided between the two leaders or their designees.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INHOFE. What time will that be approximately, right after the vote or before?

Mr. BAUCUS. Before.

Mr. INHOFE. Before. No objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I ask unanimous consent to be added as a cosponsor of the Johanns amendment No. 4702 to S. 510, the Food Safety Modernization Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THUNE. Mr. President, I compliment the Senator from Nebraska for his leadership on this issue. He has done a great job advocating on behalf of small businesses, farmers, ranchers, and all the people to be impacted by this onerous provision in the health care bill.

I fear this is something we are going to be doing and repeating quite frequently in the years ahead as more Americans find out what is in the Democrats' health care bill. This is egregious because it requires various entities to send suppliers 1099 forms if they engage in business-to-business transactions totaling more than $600 in a single year.

While I believe everyone ought to pay their fair share of taxes, I am concerned that the burden of compliance falls not on the tax delinquents but instead on the countless businesses, churches, local governments, and nonprofits that pay their taxes on time and in full or may not even have a tax liability.

This means these entities will have less time to fulfill their core missions, whether that is building products, administering to the poor, helping students learn or building local infrastructure. Instead, they are going to be filling out form after form to become compliant with this measure.

Because of the heavy compliance costs associated with this measure, its repeal is supported by a wide variety of business organizations and agricultural organizations across the country, including the Chamber of Commerce, National Federation of Independent Business, and the American Farm Bureau, to name a few.

It is not just national organizations that I have heard from. In numerous constituent meetings across South Dakota, I have heard from the citizens of South Dakota, whether they be farmers, ranchers, small businesses, CPAs, and others, about the effect this measure would have on them, their businesses, and their employees.

While this requirement is not set to take effect until next year, I believe it is important we act now to give these types of entities certainty that they will not have to take steps to comply with this measure.

I add that our government now has a debt that is approaching $14 trillion, and we need to do everything we can to make sure that debt does not increase. It is a debt that we continue to pile on more and more and hand to the next generation of Americans.

Because of that concern, I am pleased this amendment is fully offset by rescinding unspent Federal funds. The Senator from Nebraska came up with a way, through rescinding unspent Federal funds, to offset this amendment in a commonsense way. Of course, it excepts the Department of Defense and Department of Veterans Affairs, which will protect our national security interests and those who have served our country. I believe the rescissions he calls for in unspent Federal funds are a good way to make sure this doesn't add to our debt. This amendment perfectly captures that belief, and I think it is a belief that is shared by many of my colleagues in the Senate and by citizens across this country.

We need to be focused on bringing down our debt, and we will start doing that by eliminating government spending, not putting new, burdensome requirements on businesses and charities.

Unfortunately, there were numerous other provisions in the health care bill and other bills in the past 2 years which shifted the burden onto small businesses and employers. We will have to revisit each of those to ensure they don't slow economic growth and job creation, which is what the people want us to be focused on now.

I hope we can take this first step and support the Senator from Nebraska on his amendment, which addresses this critical issue, this egregious provision that puts a costly burden on small businesses, and do it in a way that is fiscally responsible and doesn't add to the debt and burden future generations with more debt.

I think the Senator from Nebraska came up with a great solution. I hope colleagues on both sides of the aisle—Republicans and Democrats—who have heard, as I have, from their constituents will take this very commonsense amendment and pass it with a big margin. Let's get this particular provision in the health care bill repealed and the negative impact it would have on economic growth and job creation in this country.

With that, I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, the amendment offered today by Senator JOHANNS proposes to rescind unobligated balances of appropriated funds that are designated for specific purposes in various appropriations bills previously enacted by Congress. The Senator offers these rescissions in order to offset the loss of revenues resulting from his amendment.

Much like similar amendments offered in the past, this amendment simply provides for a generic rescission of funds, with the authority and decisionmaking for which programs are impacted delegated entirely to the executive branch.

Consideration of this amendment is the first of two attempts this evening to shift the power of and responsibility for the Nation's purse strings from the legislative branch to the executive branch.

Rescinding funds in this manner, should this amendment be adopted,

may be politically expedient because it simply cites a dollar figure, but it is also reckless and irresponsible, and hides the accountability for future actions when legitimate programs are shut down.

Mr. President, we should make no mistake about it, an across the board cut is the legislative equivalent of performing surgery with a meat cleaver, and Senators would be right to reject the amendment for this reason alone.

I can assure my colleagues that if this amendment passes, the impact will be felt throughout this country, and the arbitrary nature of the cuts will only intensify the pain.

Why do I know this? Because for the past several months Senator COCHRAN and I have instructed our staffs to scrub the books of every single Federal agency in order to fund Pell Grants, while at the same time maintaining the discretionary spending level for fiscal year 2011 proposed by Senators SESSIONS and MCCASKILL.

Even after reviewing in great detail unobligated balances across all the agencies and rescinding those funds that were truly unobligated balances, we still have to cut spending for fiscal year 2011 in order to pay for Pell Grants to the level at which almost everyone in this Chamber desires that it be funded.

Consequently, the only unobligated balances remaining are those in accounts that have slow spend rates such as construction and infrastructure accounts. To rescind $39 billion from these remaining accounts without congressional guidance, and without any analysis of the ultimate costs and benefits, is simply irresponsible.

Throughout this past year, every time an amendment similar to this one has been offered, I and my colleagues on the Appropriations Committee have come to the Floor and provided real examples of real programs that would be impacted by such an amendment. While I will not go into such detail tonight, I will take a moment and give Members a sense of which agency accounts have unobligated balances:

International narcotics control and law enforcement programs that provide police training and counter-drug programs in Afghanistan, Pakistan, Mexico and Colombia, among others.

Global Health and Child Survival, which impacts global HIV/AIDS, malaria, TB, polio and other programs.

The State Department's worldwide security program, including funding for requirements in Iraq, again impacting our embassy and personnel security costs worldwide.

Coast Guard construction of ships and planes, including the National Security Cutter, the Maritime Patrol Aircraft, and Fast Response Cutters.

Funds to maintain and upgrade the southwest border fence in Arizona and California.

The FEMA Disaster Relief Fund which is still paying for Katrina, Rita, Gustav and Ike.

Cyber security investments to secure Federal information systems.

Funds to procure and install TSA advanced imaging technology and other explosive detection systems.

Funds to build border patrol stations in Texas, Arizona, California and Washington.

Funds to build schools and hospitals under the Bureau of Indian Affairs and Indian Health Services.

The $500 million in non-emergency unobligated fire suppression funds remaining in the Forest Service and Interior Wildland Fire accounts is the minimum needed to make sure there are enough funds available in case the fire season turns out to be worse than forecast.

Section 8 tenant-based and Section 8 project-based rental assistance. These programs receive advanced appropriations to run through the end of the calendar year. If these funds were rescinded, there would be no funding to continue to provide housing for low-income families living in housing today.

In the case of homeless assistance grants, there is a time-consuming competitive process that communities go through in order to get these funds. Accordingly, these programs have unobligated funds.

If these funds were rescinded, existing homeless programs in communities across the country wouldn't have sufficient funds to continue serving the homeless—literally leaving people on the streets.

And finally, as one would imagine, Corps of Engineers construction projects as well as funding for flood control and coastal emergencies have substantial unobligated balances.

Supporters of the Johanns amendment may claim that I and my colleagues on the Appropriations Committee are simply citing the worst case scenario of where unobligated balances may come from. The fact of the matter is that these accounts are exactly where the unobligated balances will come from.

Let me also point out to my colleagues that if this amendment is enacted, we cannot stop rescissions of unobligated balances from any of the accounts mentioned because the amendment gives sole decision-making power regarding where to cut to the executive branch.

Unlike the situation with deciding how to fund the FY 2011 ominibus, where Ranking Member COCHRAN and I, along with our committee members, decided after much scrutiny of accounts which unobligated balances were truly available for rescission, this amendment places all authority with the executive branch.

Mr. President, this amendment is not the way to do business. This is certainly not the way to fund the Federal Government. We need to stop trying to shift our fiscal responsibilities to the executive branch. We need to stop claiming there is an excess in Federal funds where none exists. And if we want to cut funds and hamper those critical programs, then we need to stop hiding behind generic rescissions.

For all these reasons, I urge my colleagues to vote against the Johanns amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNS. Mr. President, may I inquire how much time we have on this side?

The ACTING PRESIDENT pro tempore. Thirteen minutes.

Mr. JOHANNS. Mr. President, let me address some of the arguments that have been raised.

First of all, on this issue of the Baucus amendment simply doing more than the Johanns amendment or that it is especially friendly, here is what I would tell you. We checked into that and we have an e-mail from the Chief of Staff of the Joint Committee on Taxation and he says the two amendments do the same thing—they repeal the 1099 requirement. That seems to be especially friendly. As Senator BAUCUS pointed out, we are both going to accomplish the same thing; that is, we are going to repeal the 1099 requirement.

To get to the issue of this being an unprecedented grant of power to the executive branch versus the legislative branch, we also researched that. The Consolidated Appropriations Act for fiscal year 2004 basically gave the Secretary of Commerce the sole discretion to determine from which accounts and in what amounts funds would be rescinded. In other words, the Secretary had sole discretion to decide how to rescind that.

The Consolidated Appropriations Act for fiscal year 2008, when my friends on the other side of the aisle were in control of both the House and the Senate, rescinded more than $192 million in unobligated balances available to NASA and gave the Administrator sole discretion.

The Consolidated Appropriations Act of fiscal year 2008, again when my friends on the other side of the aisle were in sole control of the House and the Senate, rescinded $33 million in unobligated balances for the National Science Foundation and gave the Director sole discretion.

The Emergency Steel Loan Guarantee and Emergency Oil and Gas Guarantee Loan Act rescinded $270 million of nondefense administrative and travel funds and again gave sole discretion to the executive branch.

Very simply, the argument that somehow this is new, this is unprecedented, and this has never happened before simply doesn't hold water.

I then heard the argument of my colleague from Hawaii, a very respected Member. But I look at these unobligated balances—the Department of Agriculture, $9.6 billion. I ran that Department for about 3 years. He talks about fire suppression. We dealt with fire suppression every year. Yes, some

years were worse than others when it came to fire suppression. If we had a year where literally we had to go find additional funding because the fires were worse, we worked through that and we solved the problem. We dealt with that issue when it was presented to us.

Here is what I would say. In September, I came to the floor and I said: Look, here is how I want to pay for this. It came out of the health care bill. My colleagues said: Oh, we can't do that, but I am with you on this 1099 repeal. I listened. This repeal is paid for by using money that is literally sitting there in Federal accounts.

The other matter I would point to is that the alternative is the Baucus amendment, and here is what the Baucus amendment does. Yes, it handles the problem, just like Congress has been handling the problem for way too long. It says to our children and grandchildren: Out of this multitrillion-dollar annual budget—$1 trillion in deficit, with 40 percent of the money being literally borrowed—we can't find $19 billion. It is too hard. It is too hard, and so our kids and our grandkids are going to have to deal with it. That is exactly what the Baucus amendment does. It says it is too hard.

It is going to be the President's own Budget Director who is going to identify the funds that will pay for this. Are my colleagues on the other side suggesting we can't trust that process? Well, if we can't solve this problem and pay for it, how do we ever solve the multitrillion-dollar deficit this country is facing? Congress has allowed the administration to deal with this kind of issue on other occasions. To somehow claim that on this occasion it can't simply misses the point.

With that, I yield to Senator HUTCHISON from Texas, who wishes to speak on this issue.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. I wish to thank the Senator from Nebraska for offering this amendment. Obviously, it has been offered before, but every time I go home it renews my energy to try to stop this from taking effect.

Small businesspeople are approaching me and saying: This is crazy. Do we have to report every trip to the Office Depot? Do we have to report every travel voucher for $600 because I am going to a meeting in California? This defies description, except to say it is one more overbearing government intrusion on free enterprise in our country.

So I hope very much that because of the message of the elections in November more people will see this is not necessary. It is certainly not a part of health care reform. In fact, when I saw this come out—this little provision tucked in the enormous health care reform bill—my thinking was twofold: One, they are paying for this enormous cost of the government takeover of health care on the backs of small businesspeople in our country. That would be one interpretation. The other would be that all the talk coming out of Washington about new taxes and possibly a value-added tax means they are starting to want to get the reports that would be the basis of a new tax system. Neither of those things should be part of health care reform in this country. So I am hopeful we can put a stop to this right now.

I think the people of America well understand the burdens of this health care reform bill, passed on Christmas Eve of last year, over our objections on this side of the aisle. So maybe we can start peeling away some of the most onerous provisions—particularly this one, which takes effect in 2012—and begin to let people know we are going to try to mitigate the damage the health care bill has done, and we are going to do it a little bit at a time until we can repeal the whole thing and start all over.

It is not that our system doesn't need reform. We all have said we need health care reform. But having to report a trip to the Office Depot to buy stationery or a fax machine is not the way to a better health care system. It is a non sequitur. So I hope Senator JOHANNS' amendment to this bill passes. It is a freestanding bill, but it is a great amendment to this bill. If we can stop this now, that would be one thing we could take off the table as we are addressing the major issues that actually do deal with health care reform. Maybe we can bring it down to a level where we would be able to address it in a more responsible way.

I might add that even the National Taxpayer Advocate Division of the IRS has said they would have significant challenges in processing and analyzing the enormous volume if this piece of the Health Care Reform Act goes through. Even the IRS is asking: How could we do it, which then would lead to: What, more employees at the IRS? Well, that should scare the people of America. The last thing we need is a bigger government created to try to go into the small businesses and see if they are complying with a $600 requirement for every transaction they would make.

So I commend the Senator from Nebraska for offering this amendment. I am a cosponsor of this amendment, and I hope we will have enough votes to stop this provision in its tracks, take it off the table, and then deal with health care reform on issues that actually affect health care reform, not issues such as this, which just burden small business in our country at a time when we want them to hire people. We want them to open their doors to hiring more workers. But the more restrictions and the more burdensome paperwork we put on them, the less chance there is they are going to hire people. That is what I am hearing from my constituents, and I know it is the same for all of us who have been home listening to what the people are saying.

I thank the Chair, and I yield the floor.

Mr. JOHANNS. Mr. President, may I inquire how much time remains on our side.

The ACTING PRESIDENT pro tempore. Three minutes.

Mr. JOHANNS. Mr. President, I will use that 3 minutes just to wrap up with a couple thoughts.

The first point I wish to make in wrapping up this evening is that there has been a 21-percent increase in appropriated funding over the last 2 years—21 percent. So every small business out there is asking the question: Why is the cost, at least in part of this health care bill, falling on my back, when there has been a 21-percent increase in appropriated funding over the last 2 years? Why are you punishing me, when I am trying to do everything I can to stay afloat?

Senator HUTCHISON said it well. You can't go anywhere in this country without a small businessperson saying to you: What is it about this 1099 requirement? They are dreading the fact that they will spend valuable resources on accountants to be in compliance and to deal with this requirement. They are asking the question: Why are you picking on us?

The second point I wish to make is, the money from unappropriated, unobligated accounts—again, excluding the Department of Defense and Veterans Affairs—is 5 percent. It is 5 percent of the total. I look at that massive Federal budget, I look at what we are dealing with, and I get down to the same point—$19 billion. Why would you add that to the Federal deficit? That is exactly what the Baucus amendment does.

You simply will not find offsets that are better equipped to deal with this problem than the one I am proposing. Again, I just wish to emphasize, in September, when we were arguing this on the floor and my colleagues were coming to me and saying: MIKE, look, I am with you, I want to repeal this, this doesn't make any sense, and my phone is ringing off the hook, but I can't go along with these health care offsets, we changed the offsets. We are paying for the Johanns amendment.

The Baucus approach simply does not pay for it. So what does it do? In the end, it hampers the next generation. It adds to the national debt. If we can't find $19 billion to solve this problem, how are we ever going to solve the problem of this massive deficit we are passing on to our children and grandchildren?

With that, I ask my colleagues to support the Johanns amendment and to oppose the Baucus amendment. My hope is that we can get the votes necessary, pass this amendment, and move on to the next issues we face.

Mr. President, I yield the floor, and I ask unanimous consent that the time during the quorum call be equally charged to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHANNS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded and I ask to speak as in morning business.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, as an original cosponsor of S. 510, I am very disappointed that I cannot support tonight's cloture vote or the final passage of this bill.

Since the bill's introduction and throughout the HELP Committee mark-up process, there has been strong bipartisan cooperation to craft legislation that strikes the right balance between industry practices and FDA oversight to ensure the safest food supply possible.

Unfortunately, the Senate will not have the opportunity to vote for S. 510 as it passed the HELP Committee, nor will Senators have the opportunity to offer amendments to improve the bill. Compounding my concerns is the uncertainty about the opportunity to have an open, transparent conference with our colleagues in the House of Representatives at this late hour of the legislative session.

Instead, we are faced with voting for S. 510 with new language that was added at the llth hour which creates a loophole in the Federal food safety system. The newly added language, referred to as the ''Tester amendment,'' creates an exemption for small farms and business operations through an arbitrary size and distance threshold—neither of which have any basis in science or risk. For example, this new language would exempt a food facility or farm if it has sales of $500,000 or less, or sells half of its food to retailers, restaurants, or consumers in the same state or within 275 miles.

It is extremely important to note that S. 510 as originally introduced and passed by the HELP Committee includes many provisions to protect the rights of farmers and in particular the needs of small farmers. These small farm protections were essential in my decision to be an original cosponsor of the bill, and I fully support them.

Specifically, the original S.510 does not subject small entities that produce food for their own consumption or market the majority of their food directly to consumers to new recordkeeping requirements. Also, the original bill makes no change in definition of ''facility'' under the Bioterrorism Act of 2002 which requires certain facilities to register with FDA, thus farms and restaurants remain exempted in S. 510.

Additionally, small businesses are given regulatory flexibility throughout the original version of S. 510. For example, small processors are given additional time to comply with new food safety practices and guidelines created by the bill, and the FDA may modify or exempt small processors based on risk.

Finally, regarding risk-based traceability, farms and small businesses that are not food facilities are not expected to create new records in the original version of S. 510. Only during an active investigation of a foodborne illness outbreak, in consultation with State and local officials, the FDA may ask a farm to identify potential immediate recipients of food if it is necessary to protect public health or mitigate a foodborne illness outbreak.

Unfortunately, the new language before us tonight goes beyond small farm protections. My concern with the ''Tester language'' is that it creates a loophole for small processing facilities by exempting them from HAACP and traceability requirements or products entering the food supply in ways other than direct sales to consumers. I am concerned that these arbitrarily exempted products would comingle with items that must follow risk-based preventive controls—such as bagged salads. In the case of a foodborne illness outbreak, this exemption will make FDA's job much harder to identify and remove the tainted source from the food chain.

To state it bluntly, this new language goes far beyond protecting small farms and establishes arbitrary factors in determining the safety of food—none of which are based on risk or science.

I am opposing cloture and final passage of this bill because I have been denied the opportunity to offer any amendments, especially to strike or improve the Tester language.

I would have liked my colleagues to have had the opportunity to consider an amendment which would have limited the exemption only for products sold to qualified end users as defined in the Tester language, such as direct sales to consumers, restaurants, or retail food establishments. Without this limit, there is a significant chance that exempted products will be commingled with regulated products, thus rendering the protections created by S. 510 useless.

The full implications of the Tester amendment are unknown. I think it would be wise for the Senate to take a closer look at the potential impact before we pass this legislation. The Senate should have had the opportunity to vote on S. 510 as it was passed by the HELP Committee without this loophole. All Senators should have the opportunity to offer and consider amendments, but we do not.

Again, I also want to voice my concern regarding the opportunity to have an open, transparent conference with our colleagues in the House of Representatives at this late hour of the legislative session. For these reasons, I am voting no on cloture and no on final passage of S. 510.

I would also add, for the reasons I have expressed, virtually every processor, food processor in the country has now come out and changed their opinion regarding their support of this bill, and they are opposing the bill because of the extended loopholes that are provided by the Tester amendment that are going to take the safest food supply in the world, which we have in the United States of America, and we are now going to offer loopholes and exceptions in the chain from the farm to the restaurant, from the farm to the grocery store, from the farm to the consumer's table, and we are going to render the potential for unsafe products to enter the market, and FDA is going to have no opportunity to regulate those.

That is wrong. That is not what we started out to do with S. 510. Senator DURBIN and I talked about this, now, it is almost years ago, when we initially started the process of reforming the food safety system in this country. Unfortunately, we have gotten way away now from the original intention of this bill, to a point where it is not going to accomplish the results we started seeking to accomplish.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. I want to address the issue that has been talked about by my friend from Georgia; that is, the Food and Drug Administration Food Safety and Modernization Act. I commend my colleagues and those who have been involved, as we have been, for weeks and weeks on end now to produce this bill, which I am hopeful our colleagues will support.

We have enjoyed a few days off to celebrate the Thanksgiving holiday, the centerpiece of which is, of course, the great meal with family and friends. It is fitting at the wake of that, that we gather to deal with the issue of food safety, a bill that is intended to help ensure the safety of the food we feed our families and loved ones each and every day in this country.

One of the great things about being in this country is that every day we consume products with a sense of security that what we are ingesting or using is not going to cause us any great harm or put our lives in jeopardy. So it is important, particularly when you deal today with the processing of food that occurs, that reassurance, that sense of security that all Americans would like to have is going to be guaranteed to the maximum extent possible. Never perfect, obviously. None of us can engage in casting or creating ideas or legislation that is designed to produce perfection. But we have come close with this bill to providing that sense of security that all Americans deserve.

Before I speak about the substance of the bill, I want to take a moment to highlight the collaborative process that characterizes the construction of this bill. The bill is a bipartisan effort on the part of Senators HARKIN, ENZI, DURBIN, GREGG, BURR, and myself, along with 14 of our colleagues in this

Chamber and is designed to strengthen the country's ability to address and hopefully prevent foodborne illnesses.

I realize the bipartisan road is not always easy to follow, but I can confidently say when we approach legislation in this manner we often end up with a better, stronger, and more responsive law in the end. I think this bill is an example of that. It was not always easy. We had our differences, obviously, but we overcame them in an effort to respond to an issue that impacts all Americans regardless of political affiliation and economic circumstance; that is, again, foodborne illnesses.

This collaborative process is not limited to Members and staff. I am including outside advocates and organizations. In fact, an impressive range of constituent groups, including the Consumers Union and the Grocery Manufacturers Association, have provided valuable input in support during this process. Looking at the list of groups which support this bill says a great deal about the product itself. It says we cannot afford to ignore the topic of food safety any longer. It says our industries and consumers want to see good consistent policy in place to help prevent, and when they do occur, address these illnesses.

We have all heard the statistics. On average, 76 million Americans are sickened each year, and 5,000 die each year because of foodborne illnesses. But these are not just numbers. These are the lives of our fellow citizens in every region and economic group in the Nation. As the recall of a half billion eggs this summer due to Salmonella contamination has shown, foodborne illness is something that can impact a significant portion of our population at any given time.

According to the Centers for Disease Control and Prevention, more than 1,800 people became ill due to these contaminated eggs. Let's not forget that the most vulnerable of our population suffer the most when stricken with foodborne illnesses, especially children.

One such life significantly impacted by a strain of E. coli was a constituent of mine in Wilton, CT. She survived the contaminated lettuce she consumed, but her life has been changed as a result.

There is a lot in this bill we can be proud of. I want to focus on one particular area that I have a concern with and have been involved in for years and years—it is food allergies.

Long before I had a family of my own, I got involved in the issue. But with the arrival of my first child, Grace, in 2001, we discovered shortly thereafter that she had serious food allergies. She had been in anaphylactic shock four or five times by the time she was 4 or 5. This is a great concern to her parents, obviously, as it is for millions of people in this country. Twelve million of our fellow citizens have food allergies, many with life-threatening ones, and we are watching the numbers grow.

According to those who keep these statistics, from 1997 to 2007 the prevalence of food allergies among children increased by 18 percent. Today, approximately 3 million children in the United States are suffering from one kind of food allergy or another. While food allergies were at one time considered relatively infrequent, they now rank third among chronic diseases in children under the age of 18. Peanuts are among the several allergenic foods that can produce life-threatening allergic reactions in children.

With this bill, what we have done here, is to develop a voluntary food allergy management guideline for preventing exposure to food allergens and ensuring a prompt response when a child suffers a potentially fatal anaphylactic reaction. It also provides for school-based food allergy management incentive grants to local educational agencies to assist with the adoption and implementation of food allergy management guidelines in grades K through 12.

My State of Connecticut is one of eight that has already done this on their own. But a lot of other States, obviously, 42 have not. This bill voluntarily provides small amounts of grant money to States to help them develop these procedures that will minimize the kind of dangers that occur to children when they are exposed to food that can cause them life-threatening diseases and illness.

The Food and Drug Administration is responsible for regulating 80 percent of the Nation's food supply. But for too long, the FDA has lacked the resources and authorities necessary to adequately protect our food. This bill recognizes we cannot underfund this critical agency and gives the FDA the tools necessary to protect our food and our health.

In fact this bill establishes, for the first time, a mandatory inspection schedule, which was a priority for many who worked so tirelessly on food safety. Under the provisions of S. 510 the number of inspections conducted by the FDA will increase from 7,400 in 2009 to nearly 50,000 in 2015. Mr. President, we need these inspections. We need to pass this bill.

I am hopeful that my colleagues will recognize the importance of passing the FDA Food Safety Modernization Act. Because every family sitting down to dinner tonight deserves to know that all reasonable measures have been taken to ensure the safety of the food they are eating. It's time we put politics aside for the sake of America's families and get this bill passed.

I want to comment quickly, before my time expires, on the comments of my good friend from Georgia who just spoke, SAXBY CHAMBLISS. This was a difficult bill to put together. I commend my colleague from Montana, JON TESTER, who represents an awful lot of small farmers, small food processors.

Putting this bill together required compromise. It is what we do in this Chamber every single day, and so had we not included the Tester language in this bill I think we would have had a hard time passing the legislation. The argument would have been: Well, you have included the small truck farmers who, frankly, cannot subject themselves to the kind of rules that large produces of food can, and we would have put the whole bill in jeopardy.

By adopting the modified Tester language, we have made it possible for this bill to become law. So I commend my fellow Senator from Montana for his work. I commend Senator HARKIN, the chairman of the committee, for bringing this all together to the point where, despite all of the allegations that this body cannot come to a common agreement on a matter as important as this one is wrong. We can when we work at it, and we have done so with this bill.

I urge my colleagues to be supportive of this very important and historic piece of legislation.

I yield the floor.

Mr. DURBIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

CERTIFICATE OF ELECTION

The VICE PRESIDENT. The Chair lays before the Senate the certificate of election to fill the unexpired term for the State of Illinois. The certificate, the Chair is advised, is in the form suggested by the Senate.

If there be no objection, the reading of the certificate will be waived, and it will be printed in full in the RECORD.

There being no objection, the certificate was ordered to be printed in the RECORD, as follows:

STATE OF ILLINOIS

Executive Department

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to Certify that on the Second day of November, Two Thousand and Ten, Mark Steven Kirk was duly chosen by the qualified electors of the State of Illinois a Senator for the unexpired term ending at noon on the third day of January, Two Thousand and Eleven, to fill the vacancy in the representation from said State in the Senate of the United States caused by the Resignation of then-Senator Barack Obama.

Witness: His Excellency Our Governor, Pat Quinn, and our seal hereto affixed at the City of Springfield, Illinois, this Twenty-Third day of November, in the year of our Lord Two Thousand and Ten.

By the Governor:

PAT QUINN,
Governor.

JESEE WHITE,
Secretary of State.

[State Seal Affixed]

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senator-elect will now present himself at the desk, the Chair will administer the oath of office.

The Senator-elect, MARK KIRK, escorted by Mr. DURBIN and Mr. Fitzgerald, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations, Senator.

(Applause, Senators rising.)

Mr. REID. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

FDA FOOD SAFETY MODERNIZATION ACT—Continued

Mr. HARKIN. Mr. President, in about 35 minutes we are going to be voting on cloture on the food safety modernization bill, a bill that brings us forward almost 70 years. Seven decades it has been since we have modernized or changed our food inspection and safety system in America. So we are taking that step tonight. Hopefully, we will have a final vote on it by tomorrow.

I just want to take a few minutes now before that vote to again lay out why this bill is so important and why we need to invoke cloture tonight so we can have a final vote on this bill tomorrow.

First of all, the statistics are that Americans are getting sick and they are dying because of foodborne illnesses. You would think in this day with modernization and such we would not have this.

Madam President, 325,000 Americans every year are hospitalized and over 5,000 die. Many of these are kids. I have met them with a group called Safe Tables Our Priority. I have met some of these kids. They will be damaged for life, I say to my friend from Illinois, Senator DURBIN, who has been such a leader on this bill. In fact, I daresay we would not be here were it not for Senator DURBIN's leadership in getting this bill started, how many years ago I do not know.

Mr. DURBIN. Will the Senator yield for a question.

Mr. HARKIN. I would be glad to yield.

Mr. DURBIN. First, I thank the Senator from Iowa for his leadership on this issue. The fact is, it was almost 18 years ago when I received a letter from a woman in Chicago—written to me as a Congressman—named Nancy Donley. Nancy had a personal tragedy. Her 6-year-old son Alex died from E. Coli from food Nancy literally prepared for him in their home. She wrote to me a handwritten letter, to me as a Congressman from Springfield, IL, 200 miles away, saying we have to do something about food safety.

Nancy lost her son, but she never lost her passion for this issue. As the Senator said, she formed the organization Safe Tables Our Priority, which has been an effective voice for so many others to bring us to this moment.

But, for the record, I have worked on this issue for a long time, and we would not be on the Senate floor tonight with this historic vote were it not for the Senator from Iowa who has lead the effort. Senator TOM HARKIN has, with the help of Senator MIKE ENZI and a number on the other side of the aisle who have stepped up to make this bipartisan. This is a reasonable approach to making our food safer in America. I thank the Senator from Iowa for all of his leadership on this issue and so many others.

Mr. HARKIN. Well, I thank my friend from Illinois, but he is being way too generous. Again, I recognize the instigators of this, the ones who started this ball rolling, and Senator DURBIN is the one who got us started many years ago. And it has taken us many years to put this together. But that is why we have such a good bipartisan bill. We have worked on this. We reported this out of our committee a year ago without one dissenting vote, Republican or Democrat. Since that time, we have been working to get other people, not on the committee, obviously, onboard to get the way paved so we could have a bill that would be broadly supported.

This bill is very broadly supported, both by the industry and by the consumers. It is one of the few bills where, as a matter of fact, we have a wide range of consumer and industry support, everything from the Snack Food Association, the Grocery Manufacturers Association, Consumers Union, Center for Science in the Public Interest, the U.S. Chamber of Commerce, U.S. Public Interest Research Group. Anytime you get the Chamber of Commerce and the U.S. Public Interest Research Group on the same bill, you know you have a bill that has broad support. This bill does.

Again, I thank my colleague, Senator ENZI from Wyoming, our ranking member on our committee, for all of his help in getting this bill through and working on it diligently over the past year.

I would be remiss if I did not also thank Senator GREGG and Senator BURR for being heavily involved in this bill and working through all of the compromises a bill like this entails.

The Food Safety Modernization Act enhances our food safety system in three critical ways. It improves the prevention of food safety problems. I always think this is key. We have to get in front of this, not to just sort of catch the food once it is contaminated and try to get it done, but to try to prevent it in the beginning. We had success in the meat and poultry industry some years ago with a preventive plan to look at where pathogens could enter the food supply and stop it there. We have applied the lessons we have learned from those last 20, almost 25 years now of that to this, so now we are going to be able to look to have a better system of preventing food safety problems and foodborne pathogens.

It improves the detection or response to foodborne illness outbreaks—detect it earlier, stop it earlier, and have a better response to what is happening. In other words, for example, in the bill we provide that retailers have to in some way notify customers if a food has been recalled. That could be a grocery store putting a sign on the shelf, for example, saying: This food has been recalled, maybe putting out a notice in their supplements that they put out in order to advise consumers they may have purchased a food that has been recalled.

Third, it enhances our Nation's food defense capabilities. Right now, how many people know that less than 2 percent—about 1.5 percent—of all of the food imported into America is ever inspected? That is 1.5 percent. Well, this is going to increase those inspections. It is also going to increase the defense capabilities in case we have a problem. For example, we have stronger traceback authority so we can get to the source of where this happened in a better way than we ever have been able to do in the past.

As I mentioned earlier, it provides the FDA with mandatory recall authority. A lot of people are surprised to know—consumers are surprised to find out that if there is a foodborne illness or outbreak, the Food and Drug Administration has no authority to even recall the food. One may say: Well, the companies have the authority to recall it—and they do because, frankly, they don't want to get sued, obviously. So why have a mandatory recall? Well, you might have bad actors. You might have a company that is located offshore. Maybe they have imported some bad food into this country, and maybe they think they can just take a few bucks and run. The FDA would not have mandatory recall authority. Now they would have that to protect our consumers. As I said, it also requires the retailer to notify consumers if they sold food that has been contaminated.

Now, again, the opponents of this bill have put a lot of rumors out there. Since I have lived with this bill for so long, I am surprised people would be saying things like this. One myth I read is that this bill would outlaw home gardens—you couldn't even have a home garden. I think that comes from Glenn Beck, if I am not mistaken, but it is factually incorrect. It said it would do away with family farms. In

fact, the bill states explicitly that the produce standards ''shall not apply to produce that is produced by an individual for personal consumption.'' There is also an exemption for small farmers, small facilities, as they sell their products at roadside stands, farmers markets, places such as those.

Then there is another rumor that anyone who grows any food will now come under the jurisdiction of the Department of Homeland Security. I heard this myth that Homeland Security agents now will be tromping through your farms and your pastures and your tomato plants—again, absolutely, totally, factually wrong.

I am proud to say this legislation comprehensively modernizes our food safety system and does so without injury to farms and small processors; otherwise, we wouldn't have all of the industry groups on board if we were adding undue hardship on our processors and farmers. Our food safety system will continue to fail Americans unless we modernize our food safety laws and regulations. We should give the FDA the authority it needs to cope with the growing, varied risks that threaten today's more abundant food supply. We need to act, and we need to act now. We need to invoke cloture on this bill in just a little over half an hour.

How much time do I have remaining?

The PRESIDING OFFICER. Eight minutes 10 seconds.

Mr. HARKIN. Madam President, I know my friend, Senator COBURN, was on the floor earlier talking about this bill. He has a substitute he is going to offer. I have worked with Senator COBURN over the months. I know we have a basic philosophical difference about the role of government in this area. Be that as it may, we have worked hard, as I said, on bill compromises between people who do have differences of opinion. Again, as with any bill, there may be some things in here that I don't particularly like that I think we ought to do differently, but in the spirit of compromise, we don't get our way all the time around here; we have to give and take to get something done. That is what this bill is.

So I say to my friend, Senator COBURN, I know he has some problems with it, but, quite frankly, his substitute—and I wish to say this very forthrightly—his substitute kills our bill in its entirety. It kills it in its entirety. In its place, what my friend from Oklahoma would offer would be a few studies to help improve collaboration between FDA and USDA. There is weaker language on preventive contamination, which I think is so important—to prevent in the first place. The substitute will eliminate all of our prevention control provisions. It would eliminate the provisions that enhance coordination between State and Federal laboratories.

My friend from Oklahoma—and maybe later on we will get into this and debate it a little bit—my friend has always been saying we need better coordination. He is right. I said that earlier. He is absolutely right. We need better coordination between the FDA and USDA and other agencies, and that is being done. It is being done in this bill. But at the same time, his substitute would eliminate the provisions in our bill that enhance the coordination between State and Federal laboratories, which is exactly what we need to do—have State and Federal coordination. His substitute would eliminate the trace-back provisions that are so important to find out where the foodborne pathogen might be originating from. It would eliminate the important foreign supplier verification provisions we put in this bill—that if you are importing food from a foreign country, you have to verify that the food has met the same kinds of inspection standards we have in our own country. The substitute of my friend from Oklahoma would eliminate that provision. It would eliminate the requirement that we increase our inspection frequencies in this country, and it would eliminate the FDA's ability to recall food—the mandatory recall provision we have—even when life-threatening contamination is detected.

So for all of those reasons, I hope the substitute will not be adopted. As I said, I know my friend has some feelings about this bill. I understand that. But many of the things Senator COBURN brought up earlier and in good faith I worked with him and his staff on—some of his ideas, we appropriated in this bill. Senator COBURN—I say this as a friend—has a keen eye a lot of times for things that are duplicative or things that maybe sound good but don't do what you think they are going to do. He has a keen eye. I give him credit for that. So a lot of those things we have looked at that in the past he suggested, and we have adopted those things and put them in the bill.

Lastly, one of Senator COBURN's objections is that the bill is not paid for. Again, I think that is misguided. He knows my feelings on this issue. This is an authorization bill. Any funding that would come for this would have to be appropriated in the future. There would be absolutely no deficit increase at all.

This is from the Congressional Budget Office. From our bill, we asked them what would it do to increase the deficit. As my colleagues can see, from 2010 to 2020, there is a zero increase in the deficit because of our bill.

So, again, while I understand Senator COBURN has problems with the bill, I think his substitute really wipes out everything we have done on a bipartisan basis. Senator ENZI has worked hard, as well as Senator GREGG, Senator BURR, and others. We have worked with industry and consumer groups for over a year now to make sure we had a good bill, a comprehensive bill—one that was a true compromise between competing interests but one that gets the job done. And what is the job? To help reduce the number of foodborne illnesses in this country.

I say in closing, is this bill going to stop everybody from getting sick while eating food? No, no. It will not be 100 percent. Will it be better than what we have? You bet. It is going to prevent a lot of foodborne illnesses that otherwise would happen in this country under the present system.

Just think about this: We are operating under a food inspection safety system in this country that was adopted 70 years ago. Think of how our food supply—the growing, the processing, and the shipping—have all changed in that 70 years. We go to the grocery store in the wintertime and we buy fresh raspberries from Chile or blueberries from Argentina. We go to the store in the summertime and we buy produce made in this country from all over, commingled and shipped together. A lot of times, you don't know where it is coming from. There are so many different things that have happened over the last 70 years. Yet our inspection system has not kept up with how our food is produced, how it is processed, how it is shipped and stored, and we have not updated what we should do with imported foods. We are getting more and more imported foods into this country.

So for all of those reasons, I hope we will have a good, strong vote, a good bipartisan vote on the cloture issue and that the other measures that are coming up—we have an amendment on taxes—if either the Johanns amendment or the Baucus amendment is adopted, it will kill this bill. It will kill the bill.

I happen to be one of those who think we have to change the 1099 provisions for small businesses but not on this bill. We will do that before the end of the year, but if it is adopted on this bill, it will kill our food safety bill because the House will blue-slip it because the Constitution says bills of revenue have to originate in the House, not in the Senate; likewise, the earmark provision Senator COBURN will be offering—we will have a good debate on that too—again, if that is adopted, it will kill the bill. There is just no doubt about it.

So we worked hard for many years to get to this point. We have a good bipartisan bill. We have a bill we believe the House will pass and send on to the President to keep our people more safe. So I hope this body will reject any extraneous amendments.

Madam President, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MCCASKILL. Madam President, I rise to talk about an amendment we

will be voting on tomorrow concerning earmarks. Since coming to the Senate, I have decided I am not going to participate in what I think is a very flawed process. I don't think it is the right way to spend public money. I am not going to quarrel that some of the projects that have been funded are not meritorious; they are. In my State, some of the projects that have received earmarked funds are wonderful expenditures of public money. But it is the way in which the money is expended that is a problem; the way to decide it is the problem. It is the process.

There have been a number of defenses of earmarking. I am going to spend a couple minutes debunking the defenses of earmarking. I will tell you my favorite one: We are somehow abdicating the power of the purse that is delineated in the Constitution. Give me a break. We decide every dime of Federal money. Congress makes the decision on appropriations for every Federal program. How is giving up a secretive process, where nobody is sure how it is decided who gets how much money—how is getting rid of that somehow removing our constitutional authority to make spending decisions? It is like they want the American people to believe that if we quit earmarking, the appropriations process is going to go away, that we will no longer pass judgment on the President's budget, that we will not have oversight over Federal money. It is silly and absurd. In some ways, it is almost insulting.

The constitutional powers to decide how Federal money is spent will remain with the Congress long after this bad habit has been broken. Make no mistake about it, it may not be this year, it may not be next year, but the American people are on to us. They now know and understand that earmarking is about who you are. It is about what committee you sit on. It is about whom you know.

If this is such a fair process, if this is something we should be proud of, then I want someone to come to the floor and explain to me how they decide who gets the money. I ask it at home all the time, and I say: If you know, will you tell me because I am a Member of the Senate and I don't know.

In some committees, the ranking member and the chairman of the subcommittee get more money than everybody else. In other committees, they don't. Where is that decided? In what room? Is there a hearing? Can I go and watch? When the money is split, who is in the room? Who is on the phone? If we are brutally honest with the American people, we will tell them that is a process we don't want them to see. Yes, we are better because we reformed. I am proud my party led the reforms on earmarking right after I came to the Senate. Now your name is on your earmark.

I will tell you what is not public. Do you know what people at home actually believe? They believe the Senators don't pick the winners and losers. They actually think there is some mysterious process, but what we don't know is what are all the earmarks that Senators say no to. Senators say no to these earmarks. It is not a committee that says no to these. It is not a chairman. Each individual Senator decides winners and losers. I don't think the losers know that. I think the losers think that Senator had nothing to do with them being a loser. If we can make all that public, this would be a much less popular activity because all of a sudden the people who wanted the bridge in this part of the State would realize that the Senator thought the bridge on the other side of the State was more important. So we take credit for the earmarks we get, but we are not willing to own the fact that we have chosen winners and losers.

Finally, this notion that somehow the bureaucrats are going to decide—most of the money taken for earmarks comes out of programs that are grant programs and formula programs and are decided by population or by local people. It is not Washington bureaucrats. They are supplanting the judgment of one person for the local planning process and the State planning process. That is not the way.

I hope people vote for the Coburn-McCaskill amendment. This is the wrong way to spend public money. Whether it happens tomorrow or 2 or 3 years from now, make no mistake about it, the American people are tired of it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARDIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to rule XXII, the Chair lays before the Senate the following cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Harkin substitute amendment No. 4715 to Calendar No. 247, S. 510, the FDA Food Safety Modernization Act.

Harry Reid, Patrick J. Leahy, Claire McCaskill, Tom Harkin, Carl Levin, Daniel K. Inouye, Richard J. Durbin, Byron L. Dorgan, Jack Reed, Jeff Bingaman, Mark Begich, Blanche L. Lincoln, Robert Menendez, Daniel K. Akaka, Sherrod Brown, Sheldon Whitehouse, Patty Murray, Debbie Stabenow, Barbara Boxer.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 4715 to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mr. PRYOR), and the Senator from Montana (Mr. TESTER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from North Carolina (Mr. BURR).

The yeas and nays resulted—yeas 69, nays 26, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—69

Akaka	Franken	Merkley
Alexander	Gillibrand	Mikulski
Baucus	Grassley	Murkowski
Bayh	Gregg	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Inouye	Reed
Boxer	Johanns	Reid
Brown (MA)	Johnson	Rockefeller
Brown (OH)	Kerry	Sanders
Cantwell	Kirk	Schumer
Cardin	Klobuchar	Shaheen
Carper	Kohl	Snowe
Casey	Landrieu	Specter
Collins	Lautenberg	Stabenow
Conrad	Leahy	Udall (CO)
Coons	LeMieux	Udall (NM)
Dodd	Levin	Vitter
Dorgan	Lincoln	Voinovich
Durbin	Lugar	Warner
Enzi	Manchin	Webb
Feingold	McCaskill	Whitehouse
Feinstein	Menendez	Wyden

NAYS—26

Barrasso	Crapo	McCain
Bennett	DeMint	McConnell
Bond	Ensign	Risch
Bunning	Graham	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Corker	Isakson	Wicker
Cornyn	Kyl	

NOT VOTING—5

Brownback	Lieberman	Tester
Burr	Pryor	

The PRESIDING OFFICER. On this vote, the yeas are 69, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BROWN of Massachusetts. Madam President, I come to the floor today to talk about a provision that was included in the Federal health care reform bill. It is a provision that adversely impacts small businesses and entrepreneurs, both an engine of job growth in Massachusetts and across the country.

I support Mr. JOHANNS' efforts and leadership to repeal this provision of the law. I am proud to be a cosponsor of his efforts to do just this.

The provision that I am referring to—section 9006 of the Federal health care reform bill—requires that every business, charity, and local and State government entity submit a 1099 form for every business transaction totaling $600 or more in a given year. It has been estimated that this mandate would affect approximately 40 million entities across the country.

Under the law, businesses will be required to report purchases of items

such as office equipment, food and bottled water, gasoline, lumber, and plumbing supplies if payments to any vendor in the course of a year total at least $600. They will, in many cases, also have to report payments for things such as travel and telephone and Internet service. To comply with the mandate, businesses—especially small businesses—would have to institute new, complex record-keeping data collection and reporting requirements that track every purchase by vendor and payment method. The provision will increase accounting costs, expose businesses to costly and unjustified audits by the IRS, and subject more small businesses to the challenges of electronic filing.

So what does all of this really mean? And why does this provision need to be repealed? Well, what it means is that small businesses and entrepreneurs will be busy completing paperwork, filling out forms, and complying with government mandates.

The provision needs to be repealed because when small businesses are focused on keeping the government at bay, they aren't creating jobs or making investments that spur economic growth.

This is a policy we can all agree on—from both sides of the aisle. It is a policy that I have supported from the very start and that I will continue to support and fight for.

Passing this amendment is the right thing to do—for small business owners, for entrepreneurs, and for every business that is eager to hire workers, expand its business, and grow.

I commend my colleague's leadership on this issue. My colleague, Mr. JOHANNS has been leading this effort since the Federal health care reform passed earlier this year, and I support him fully. And I urge my fellow Senators to repeal this job-and investment-killing mandate.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska will be recognized to offer a motion to suspend the rules.

MOTION TO SUSPEND

Mr. JOHANNS. Madam President, I move to suspend the rule XXII, including any germaneness requirements, for the purposes of proposing and considering amendment No. 4702, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

MOTION TO SUSPEND

Mr. BAUCUS. Madam President, pursuant to the previous order, I move to suspend the rules for the consideration of my amendment, which is at the desk, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote will first occur on the motion of the Senator from Nebraska.

The Senator from Montana.

Mr. BAUCUS. Madam President, I understand, under the order, each side gets to speak for 1 minute.

The PRESIDING OFFICER. That is correct. The Senator from Nebraska.

Mr. JOHANNS. Madam President, if I might take my minute to explain what is happening tonight, the first amendment we will vote on is the Johanns' amendment. It repeals the 1099 requirement in the health care law. This came before us in September. Many colleagues came to me and said: I do not like the pay-fors coming out of the health care law. This is paid for. It is paid for out of unobligated funds in the Federal system, if you will.

The second amendment, the Baucus amendment, simply is not paid for. So you will be adding to the Federal deficit if you support the Baucus amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. The Senator from Nebraska and I both seek to repeal the provisions in the health care reform act referring to 1099. They are identical in that respect, but actually we go further and give more relief to small business than does the Senator from Nebraska.

The Johanns amendment would also give the unelected Director of the Office of Management and Budget the power to slash $33 billion in appropriated spending entirely at his own discretion, taking away the responsibility of the Congress. I do not think that is a good idea.

The Johanns amendment, thus, puts at particular risk slower spending accounts that fund vital purposes. The Johanns amendment puts at risk international narcotics control, law enforcement funding, $39 billion worth of funding solely in the discretion of the OMB Director, taking that power away from the Congress. I think that is a bad idea. I urge my colleagues to oppose the Johanns amendment.

Mr. JOHANNS. Madam President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 24 seconds remaining.

Mr. JOHANNS. In reference to the argument of the Senator from Montana, Congress has allowed the administration to make similar decisions on rescinding funds in 1999, 2004, and twice in 2008, while our friends on the other side of the aisle were in control of Congress. That argument simply does not hold water.

I urge my colleagues to support the paid-for amendment, the Johanns amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion of the Senator from Nebraska.

The yeas and nays are ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from North Carolina (Mr. BURR).

The yeas and nays resulted—yeas 61, nays 35, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—61

Alexander	Feingold	Menendez
Barrasso	Graham	Murkowski
Bayh	Grassley	Nelson (NE)
Bennet	Gregg	Nelson (FL)
Bennett	Hagan	Risch
Bingaman	Hatch	Roberts
Bond	Hutchison	Sessions
Brown (MA)	Inhofe	Shelby
Bunning	Isakson	Snowe
Cantwell	Johanns	Stabenow
Chambliss	Kirk	Tester
Coburn	Klobuchar	Thune
Cochran	Kohl	Udall (CO)
Collins	Kyl	Udall (NM)
Conrad	LeMieux	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Manchin	Webb
DeMint	McCain	Wicker
Ensign	McCaskill	
Enzi	McConnell	

NAYS—35

Akaka	Feinstein	Mikulski
Baucus	Franken	Murray
Begich	Gillibrand	Reed
Boxer	Harkin	Reid
Brown (OH)	Inouye	Rockefeller
Cardin	Johnson	Sanders
Carper	Kerry	Schumer
Casey	Landrieu	Shaheen
Coons	Lautenberg	Specter
Dodd	Leahy	Whitehouse
Dorgan	Levin	Wyden
Durbin	Merkley	

NOT VOTING—4

Brownback	Lieberman
Burr	Pryor

The PRESIDING OFFICER (Mr. MERKLEY). On this vote, the yeas are 61, the nays are 35. Two-thirds of the Senators voting not having voted in the affirmative, the motion is rejected.

The Senator from Montana.

MOTION TO SUSPEND

Mr. BAUCUS. Mr. President, this next vote is very simple. It repeals the 1099 provisions that we all said to small businesses that we are going to repeal. Purely and simply, it repeals 1099. I urge Members to vote to repeal, get this over with so we can move on to other business.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNS. Mr. President, this adds $19 billion to the Federal deficit.

I yield the remainder of my time to Senator JUDD GREGG.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this is not the proper way to address this issue, to add $19 billion to our deficit. That has to be paid too by our children and by small businesses being affected by this 1099 proposal. Let's do this the right way. Let's do it the way the Senator from Nebraska has suggested—pay for it. It should be corrected that way, not by adding $19 billion to our debt.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion offered by the Senator from Montana.

The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from North Carolina (Mr. BURR).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—44

Akaka	Hagan	Nelson (NE)
Baucus	Inouye	Reed
Bayh	Johnson	Reid
Begich	Kerry	Rockefeller
Boxer	Kirk	Sanders
Brown (MA)	Klobuchar	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Casey	Levin	Tester
Coons	Manchin	Warner
Dorgan	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murray	

NAYS—53

Alexander	Durbin	McCain
Barrasso	Ensign	McCaskill
Bennet	Enzi	McConnell
Bennett	Feingold	Murkowski
Bingaman	Graham	Nelson (FL)
Bond	Grassley	Pryor
Bunning	Gregg	Risch
Carper	Harkin	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Isakson	Thune
Conrad	Johanns	Udall (CO)
Corker	Kohl	Udall (NM)
Cornyn	Kyl	Vitter
Crapo	LeMieux	Voinovich
DeMint	Lincoln	Wicker
Dodd	Lugar	

NOT VOTING—3

Brownback	Burr	Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Two-thirds of the Senators voting not having voted in the affirmative, the motion is rejected.

VOTE EXPLANATIONS

Mr. TESTER. Mr. President, unfortunately, I was not able to be present to cast an important vote this evening due to a delayed flight. The vote was for cloture on the substitute food safety bill, which includes my amendment. After widespread foodborne illnesses have sickened millions of Americans throughout the country, including in Montana, this bill will help restore Americans' confidence in our food supply. With my amendment, it will also recognize that family-scale producers that have immediate relationships with their customers at a local level have not been at the root of our food safety problems, so they should not and cannot bear the same regulatory burden.

Had I been present, on vote No. 252, cloture on substitute amendment No. 4175 to S. 510, Food Safety Modernization Act, 60 vote threshold, I would have voted in the affirmative.

Mr. PRYOR. Mr. President, due to my airline flight delay traveling back from Arkansas, I inadvertently missed the vote on Senator JOHANNS' motion to suspend rule XXII for the purpose of proposing and considering his amendment No. 4702 to repeal the 1099 information reporting requirement. I would have voted for Senator JOHANNS' motion had I been present.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. LIEBERMAN. Mr. President, I regret having missed votes to suspend the rules and consider two amendments to the FDA Food Safety Modernization Act. I was unable to be present for these votes due to a family wedding.

Had I been present, I would have voted in favor of the motion to suspend the rules to consider Senator BAUCUS's amendment to repeal the form 1099 reporting requirement. This provision imposes an onerous compliance requirement on businesses of all sizes, and Congress should act quickly to remove that burden and allow businesses to direct their time, energy, and resources to growing their businesses and creating new jobs.

I would have voted against the motion to suspend the rules to consider the Johanns amendment because it would have delegated Congress's constitutionally delegated responsibility to make spending decisions to the executive branch, also shifting accountability for making difficult and unpopular spending cuts from Congress to the President.●

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, we have just invoked cloture on the food safety bill, and I think it is important for the American people to know what that means. That means we are going to spend another $1.4 billion of their money. No. 2, we are going to raise the cost of food over the next year, and therefore we are at about $200 million to $300 million. We set $141 billion per year in unfunded mandates on the States if we pass this bill, and we didn't fix the real problem with food safety in this country, according to the Government Accountability Office.

The other point I wish to make is that we went through this process over the last week and a half with no amendments being allowed—no amendments being allowed—which really violates the spirit of the Senate. We could have finished this bill probably the week before Thanksgiving had amendments been allowed.

The thing Washington gets wrong—it is not their intent, it is not their well-meaning desire to fix problems that are in front of the country—what Washington gets wrong is they think spending more money and setting up a ton more regulations will fix problems, and it doesn't. What it does is it raises costs. So we are going to see a lot of small food manufacturers no longer making food. We are going to raise the cost of our food and, by the way, see significant increases—if I could have my charts on the floor, I would appreciate it—this year in food, and we are going to see that extended, but we are not going to fix the real issue.

Food safety is on the minds of everybody in this country because of the recent 500 billion egg recall in this country. It is important to know what went on there. It is important to note that the head of the FDA, Dr. Margaret Hamburg, said had their rule been in existence, we wouldn't have had that problem of salmonella with eggs. They promulgated the finished rule around the time of the salmonella infection and contamination on the eggs.

The problem with that is it took 10 years to develop that rule. Nobody has asked why it took 10 years. Nobody had a hearing before we passed this rule to say: How did we allow this to happen? But we took 10 years.

Senator HARKIN has the right idea on food safety. He didn't get it proper, that bill, because he couldn't get it through, but his idea is that we need one food safety organization, not three, and we now have three, and we are going to exacerbate that problem with the bill on which we just deemed cloture.

The intent of my colleagues is great, but, as somebody trained in the art of medicine, what I see in this bill is different from what you see in this bill. You see, I see the problem is not lacking regulatory authority; the problem is not holding the regulators in their expertise and carrying out the authority they have. How do I know that for sure? Because it wasn't a week after the recall on the eggs on the salmonella scare that we had two FDA inspectors cross-contaminating farms in Iowa, not even following their own regulations. This doesn't do anything for that because the only thing that is going to fix the real problems with food safety in this country is us holding the regulators accountable, not giving them a whole bunch more regulations, and we haven't done that. We have failed to do that.

It is not just in food safety. The reason we have a $1.3 trillion deficit is because we don't hold agencies accountable. We are going to have a debate in a minute on earmarks, and we are going to hear it put forward that the only way we can control it is to direct money ourselves. That is just absolutely an untruth. The way you can direct where money gets spent in this country is having oversight on the agencies and them knowing you are going to look every time on how they are spending the money and make them justify it. But the fact is, we are not looking because we have decided we will take ours and we will put our $16 billion over here, and you, administration, can take your money and put

your money where you want to put it. That is the real debate on earmarks. There is nothing in our oath that says anything about our obligation to our State to bring money back to it. And the hidden little secret on earmarks is that they are used as much as a political tool as they are to claim ''I am doing something good for my State.''

MOTIONS TO SUSPEND

I ask unanimous consent to move to suspend the rules for the consideration of amendment No. 4696 and amendment No. 4697.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, I wish to ask the Senator from Oklahoma if he could explain the nature of his unanimous consent request. I may not object, but I just didn't understand it.

Mr. COBURN. To the Senator from Illinois, I am just bringing these up. I have to bring them up either in the morning or this evening for votes in the morning, so I am just bringing them up to be available for consideration under a suspension of the rules.

Mr. DURBIN. So it is my understanding the votes will still be tomorrow on the two issues the Senator has pending?

Mr. COBURN. Yes, they will.

Mr. DURBIN. I do not object.

The PRESIDING OFFICER. The motions to suspend are pending rather than the amendments themselves. Is there objection?

Without objection, it is so ordered.

The Senator from Oklahoma has the floor.

Mr. COBURN. Mr. President, I just want to show my colleagues the difference. One of the motions we will vote on on suspending the rules tomorrow is, here is S. 510, 280 pages of new rules and new regulations. Here is the alternative, which is one-sixth of that. This one costs $1.4 billion in direct costs, $400 billion in food increased costs, and $141 million in mandatory new spending, mandates to the States. This one does none of that.

What does this bill do? This bill uses common sense to say what really controls our food safety. Our food safety is controlled by market forces more than anything. And if you look at our history on foodborne contamination, we are by far the safest in the world, and our rates have been coming down since 1996. Over the last 14 years, our rates have come down in terms of foodborne illnesses.

I am not fighting against food safety; I am fighting for common sense. What we see in the bill we are going to vote on versus the alternative which I am going to offer is one builds and grows the government, one raises the cost of government, and ultimately we will be taxed to pay for that. One raises the price of food and one puts unfunded mandates on the States.

I am saying that we can accomplish exactly the same goal as my chairman, the Senator from Iowa, would like to accomplish without 280 pages of new rules and regulations. So what do we do? We require the FDA and the USDA to immediately establish a comprehensive plan to share their data. They have agreements to share data, but they don't share the data, so we force them to do that. We require a strategic plan for updating their health information technology systems, which the Government Accountability Office for the last 5 years has been saying is their No. 1 problem. We require the FDA to submit a plan to expeditiously approve new food safety technologies and more effectively communicate those technologies to the industry and consumers. We leverage the free market existing food safety activities by allowing the FDA to accredit third-party inspectors, and we provide unlimited new authority without imposing new costs or additional regulatory burdens. These new authorities intend to better leverage the free markets and focus resources on preventing foodborne illness and contamination. They include emergency access to records, clarifying the HACCP authority relating to high-risk foods, and allowing the FDA to develop strategic international relationships.

What will this bill do? It will fix the real problem: ineffective government, ineffective bureaucracies. What we are going to do when we pass the food safety bill that is on the floor is we are going to grow the government. We are going to create more barriers. We are going to raise the cost, and we are still going to have foodborne illnesses.

So I will end with that and move over to earmarks. I know I have several colleagues who wish to speak about it. I am not going to spend a long time on it. We have debated it and debated it. The fact is that this country did just fine for the first 200 years without the first earmark. And when anybody in the Senate in the first 200 years in this country tried the earmark, they got shouted down in this body because they were told their responsibility was to the country as a whole, not to the privileged, well-connected, well-knowing few who helped them come up here.

We have a problem, and the problem isn't earmarks; the problem is the confidence of the American people. They see the conflicts of interest associated with earmarks. It is not wrong to want to help your State. It is not wrong to go through an authorizing process where your colleagues can actually see it. It is wrong to hide something in a bill that benefits you and the well-heeled few without it being shown in light to the American people.

If we are to solve the major problems that are in front of this country over the next 2 or 3 years—and they are the largest we have ever seen, they are the biggest problems we have ever seen in this country—we have to restore the confidence of the American people.

Utilization of an earmark is not our prerogative; it is our pleasure. We claim a power that we have in fact created. We do direct where the money goes. But we should never do it with a conflict of interest that benefits just those we represent from our States or just those who help us become Senators. All we have to do is look at campaign contributions and earmarks, and there is a stinky little secret associated with that: the correlation is close to one. That is not something this body should embrace, tolerate, or stand for.

The American people expect us to be transparent, aboveboard, doing the best, right thing for the country as a whole. The real process is that the Appropriations Committee ignores authorizing committees; $380 billion a year in discretionary funds are appropriated every year that are unauthorized. With that rebuff of the authorizing committees, they also put in any earmarks they want or that any other Member wants. It is time that stops. It is time we re-earn the trust of the American people.

With that, I yield to my colleague, the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank Senator COBURN. I also express my appreciation to Senator MCCASKILL and Senator UDALL for joining in this very important amendment. As the Senator from Oklahoma mentioned, this issue has been debated many times on the floor of the Senate. There have been efforts to repeal certain most egregious earmarks. A ''bridge to nowhere'' in Alaska was one of those that became more famous than others.

I have to say to my colleagues that I have seen with my own eyes—and I say this with great regret—the influence of money and contributions in the shaping of legislation. I have seen that come in the form of earmarks. One of the individuals I admired a great deal, a former Member of the House of Representatives, now resides in Federal prison because of earmarking. Another Member of Congress recently got out of prison. It was earmarking. We just saw that the former majority leader of the U.S. House of Representatives was convicted in court in Texas, and earmarking played a major role. The system of rewards for campaign contributions was an important factor in that conviction.

So for many years I have been coming to this floor to express my frustration with this corrupt practice. It has been a lonely fight and hasn't won me many friends in this body. I understand that. But I also want to point out that my criticisms have not been directed just from the other side of the aisle. Earmarking is a bipartisan disease, and it requires a bipartisan cure. After so many years in the trenches to eliminate this practice, I am pleased the American people are demanding that they stop this practice.

As my colleagues know, earlier this month the Senate Republican caucus unanimously adopted a nonbinding resolution to put into place a 2-year earmark moratorium. I applaud my fellow

Republicans in the Senate for joining our Republican colleagues in the House in sending a message to the American people that we heard them loud and clear in the election on November 2 that we will get spending under control and we will start by eliminating the corrupt practice of earmarking.

Mr. President, I have had a lot of communications and relations with and even attended tea party rallies across my State. There is very little doubt that a real revolt is going on out there. I can't call it a revolution because I don't know how long it is going to last. I don't know how it is going to be channeled. I don't know exactly where this movement will go. But I do know it involved millions of Americans who had never been involved in the political process before because of their anger and frustration over our practices here, and they believe earmarking is a corrupt practice. They believe their tax dollars should not be earmarked in the middle of the night, without any authorization, without hearings.

The Senator from Oklahoma just pointed out $380 billion in earmarks. Some of those earmarks are worthy. If they are worthy, then they should be authorized. So what has happened? What we have seen in the last 30 years or so is an incredible shift from the hands of many to the decisions of a few. We don't do authorization bills anymore. We don't do an authorization bill for foreign operations. We don't do an authorization bill for all of these other functions of government for which there are requirements because, what do we do? We stuff them all into the appropriations bills. Then the members of the Appropriations Committee make decisions that are far-reaching in their consequences, with incredibly billions of dollars, without the authorizing committees carrying out their proper role of examination, scrutiny, and approval.

The way the system is supposed to work—and did for a couple hundred years—is that projects, programs, whatever they are, are authorized, and then the appropriators appropriate the certain dollars they feel necessary to make this authorization most effective and efficient. So we don't authorize anymore. We only appropriate. That is wrong. That really puts so much power in the hands of a very few Members of this body and, inevitably, it leads to corruption—inevitably.

The Heritage Foundation wrote a report I urge my colleagues to read. It is entitled ''Why Earmarks Matter.'' The first point they make is this:

> They invite corruption. Congress does have a proper role in determining the rules, eligibility and benefit criteria for federal grant programs. However, allowing lawmakers to select exactly who receives government grants invites corruption. Instead of entering a competitive application process within a federal agency, grant-seekers now often have to hire a lobbyist to win the earmark auction. Encouraged by lobbyists who saw a growth industry in the making, local governments have become hooked on the earmark process for funding improvement projects.

There are small towns in my State that feel obligated to hire a lobbyist to get an earmark here through the Appropriations Committee. They should not have to do that. They should not be spending thousands and thousands or tens of thousands of dollars for a lobbyist to come here to get an earmark. They should have their desires and their needs and their requirements considered on an equal basis with everybody else's, not only in their State but in this country. But now they believe the only way they will get their pork or their project done is through the hiring of a lobbyist.

The Heritage Foundation goes on:

> They encourage spending. While there may not be a causal relationship between the two, the number of earmarks approved each year tracks closely with growth in federal spending.

Then the Heritage Foundation says:

> They distort priorities. Many earmarks do not add new spending by themselves, but instead redirect funds already slated to be spent through competitive grant programs or by states into specific projects favored by an individual member. So, for example, if a member of the Nevada delegation succeeded in getting a $2 million earmark to build a bicycle trail in Elko in 2005, then that $2 million would be taken out of the $254 million allocated to the Nevada Department of Transportation for that year. So if Nevada had wanted to spend that money fixing a highway in rapidly expanding Las Vegas, thanks to the earmark, they would now be out of luck.

So what we do is deprive the Governors and the legislators from setting the priorities they feel are the priorities for their States. And all too often, the earmark is not what the State or the local citizenry or town or county needs as their priorities because they are decided with the influence of lobbyists in Washington. I say, with all due respect to the appropriators, they don't know the needs of my State like I know the needs of my State, and not nearly as much as the mayor, the city council, the Governor, and the legislature. Let them make the decision where these moneys should be spent, and not on a bike path instead of improving a highway.

Mr. President, I could go on and on. I come down here year after year and look at the porkbarrel projects and earmarks, and we discuss the ones that are the most egregious and then I am amused and entertained by Members who come down and defend many of these absolutely unneeded and unnecessary projects. I will not go into many of my favorites at this time. I know my colleagues are waiting to speak.

I ask my colleagues to understand the voice of the people of this country. I just read today that more seats were gained by the Republican Party than in any election since 1938. Since 1938, there has not been such a political upheaval in this country. That is not because our constituents have now fallen in love with Republicans. That is not the case. The message is that all of our constituents are tired of the way both Republicans and Democrats conduct their business in Washington, frivolously and outrageously spending their hard-earned tax dollars. They believe we are not doing right by them, that we are not careful stewards of their tax dollars, that we are engaging in practices that need to stop which has disconnected us from the American people. We need to connect again with the American people.

I am going to hear the arguments that it is only a few dollars, not much money, and we don't trust the Federal Government to do it. I have heard all of those arguments year after year. I have watched year after year the earmarks go up and up. I have seen the corruption. Senator DORGAN and I had hearings in the Indian Affairs Committee about a guy named Jack Abramoff. We saw firsthand the effects of unscrupulous lobbyists and the millions and millions of dollars they got in earmarks as a result of their corrupt influence. There are many Jack Abramoffs in this town; they just haven't gotten famous.

Mr. President, again, I thank Senators COBURN, UDALL, MCCASKILL, and others who support this amendment. As I said 20-some years ago, we will keep coming back and back and back to the floor of this body until we clean up this practice and restore the confidence and faith of the American people—the people who send us here to do their work, not our work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise this evening——

Mr. COBURN. Would the Senator yield for a unanimous consent request?

Mr. INOUYE. I yield.

Mr. COBURN. Mr. President, I ask unanimous consent that after the chairman of the Appropriations Committee speaks we alternate back and forth. We are planning to turn in a bunch of our time—to yield back a bunch of our time—and I would suggest that Senator UDALL be given 8 minutes after the chairman of the Appropriations Committee, and following him Senator LEMIEUX, with an intervening statement from the other side, followed by Senator MCCASKILL for 10 and Senator INHOFE for 15 minutes, alternating back and forth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. I thank the chairman for yielding.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise this evening to speak against the Coburn amendment which imposes a moratorium on congressional initiatives for the next 3 years.

Mr. President, our Founding Fathers bestowed upon the Congress the authority to ensure that the people's representatives would make the final decision upon spending, not the executive

branch. They had lived under a monarchy in which the power of the purse resided with the Executive, and they had no desire to repeat that experience. In short, our Founding Fathers did not want another King, they wanted a President but a President whose power would be held firmly in check by a coequal Congress.

None of us should be surprised that President Obama is expressing his opposition to earmarks. A ban on earmarks would serve to strengthen the executive branch of government by empowering the President to make decisions that the Constitution wisely places in the hands of Congress. This is the exact same reason Presidents Clinton and Bush sought the line-item veto during their Presidencies.

As I have said many times before, the people of Hawaii did not elect me to serve as a rubberstamp for any administration. Handing over the power of the purse to the executive branch would turn the Constitution on its head.

So I must admit, Mr. President, I find it puzzling that some Republicans would want to grant all authority over spending to any President but especially a Democratic President. Make no mistake, that is exactly what this amendment will do.

We have heard numerous misleading arguments from opponents of earmarks, but several in particular seem to be repeated again and again. I cannot allow the misinformation or misrepresentation to go unanswered.

First and foremost, opponents falsely claim that earmarks contribute to the deficit. Perhaps the strongest proponent of this argument is the junior Senator from South Carolina who stated the following in a fundraising letter he sent out in October:

I am not willing to bankrupt my country for earmarks.

It is a fine statement. This is but one example of the many times over the past year in which so-called deficit hawks have falsely asserted that earmarks are the root cause of our Nation's fiscal problems. This is especially galling when you consider that many of these same individuals supported the policies that led directly to the current budget crisis.

In the interest of setting the record straight, and as chairman of the Senate Appropriations Committee, I feel compelled to point out to my colleagues that eliminating earmarks would do virtually nothing to balance the Federal budget. This is a cynical attempt to distract the American people from the serious challenges before us and nothing more.

The numbers clearly demonstrate just how misleading the arguments of earmark opponents are. According to the most recent Congressional Budget Office estimate, Federal spending for fiscal year 2010 totals about $3.5 trillion, and revenues for that year total about $2.2 trillion, resulting in a deficit of $1.3 trillion. Congressional initiatives make up less than ½ of 1 percent of the total Federal spending. If we accept this proposal to eliminate all earmarks and take the second necessary step of actually applying the savings to deficit reduction, the total deficit for the United States would still be $1.3 trillion.

If opponents were serious about eliminating the deficit and paying down the national debt, they would offer a specific plan for cutting the $1.2 trillion in spending or for increasing revenues. Instead, they choose to mislead the American people by implying that we can balance the budget by cutting a tiny fraction of Federal spending.

Calling for the elimination of congressional earmarks is a legitimate philosophical position to take, although not one with which I agree. However, to suggest that earmarks are the cause of our deficit of $1.3 trillion is irresponsible.

Adding to this misleading rhetoric are allegations that congressionally directed spending is an inherently corrupt practice that is hidden from the public eye. That allegation is simply false. We all recognize that the practices of the previous majorities led to significant abuses of the system. However, since we recaptured the Congress in 2006, Democrats have instituted a series of major reforms that now hold Members accountable and have made earmarking more transparent than ever. That is the law.

I would ask any of my colleagues: Can anyone name another part of the Federal budget—and let me remind my colleagues we are talking about less than ½ of 1 percent of the budget—that is subject to more scrutiny than earmarks?

The Appropriations Committee requires every Member to post his or her request 30 days prior to the committee's consideration of the relevant appropriations bill. The committee requires every Member to submit a letter that he or she does not have a pecuniary interest in the projects for which the funding is being requested. The committee's Web site provides a link to every single Member's request. These are all reforms that were implemented when the Democrats took control of the Senate and the House.

To pretend and suggest that earmarks are being doled out in a business-as-usual manner reflective of previous Congresses is flatout misleading. Reforms have been made that allow great projects that provide benefits to the Nation and to individual States and districts to be funded while ensuring that the abuses of the early and mid-2000s are a thing of the past. There can be no doubt that we have entered an age of real transparency when it comes to earmarks.

Moreover, each and every earmark that comes before the Senate today is listed in the committee report so that all Members are able to identify them and know exactly what they are voting on. Of course, the Internet makes all earmark requests available to the press and to the public. The Internet also makes all campaign contributions over $200 equally accessible. So where is the so-called corruption? Where are the secret deals? I would like to know about them.

Further, I remind my colleagues that in 2010, funding for earmarks is less than half of the $32 billion in earmarks provided in 2006.

I have spent considerable time refuting the misinformation being spread by those who are opposed to congressionally directed spending initiatives. If I may, I would like to highlight a few examples of why the practice of earmarking is indeed necessary.

As chairman of the Defense Appropriations Subcommittee, I have witnessed the benefits of earmarks firsthand over many years. I have previously discussed the benefits to our troops and our Nation of the Predator drone—the pilotless drone that is able to pick up enemy sites without endangering our troops. I have pointed to the new bandages that quickly stop bleeding in serious wounds that have saved countless lives of our soldiers fighting in Iraq and Afghanistan. Mr. President, these are earmarks.

Let me now turn to other areas of the Federal budget. I will start by reminding my colleagues that one of the most successful programs for low-income women and infants started out as an earmark. In the 1969 Agriculture appropriations bill, Congress earmarked funds for a new program called WIC to provide critical nutrition to low-income women, infants, and children.

Over the past 41 years, this program has provided nutritional assistance to over 150 million women, infants, and children, making a critical contribution to the health of the Nation. This vital program has provided much needed assistance to millions, and it came into existence as an earmark.

In 1969 and 1970, Congress earmarked $25 million for a children's hospital in Washington, DC, despite the objections to and the veto by the President. That funding resulted in what we know today as the Children's National Medical Center. Children's Hospital has become a national and international leader in neonatal and pediatric care, providing health care to over 5 million children since its doors opened. Again, I note this was an idea—an earmark—directed by Congress and vetoed by the President.

In 1987, Congress earmarked funds at the request of Senator Domenici for mapping the human gene. This project became known as the human genome project. This research has led to completely new strategies for disease prevention and treatment, including the discoveries of dramatic new methods of identifying and treating breast, ovarian, and colon cancers. No one disputes that these advances will save many lives, and it all began with an earmark.

This was a project that was not supported by unelected agency bureaucrats in the executive branch, and thus would never have made it into the budget without congressional intervention.

In the early 1990s, I pursued, along with my dear friend, the Senator from Alaska, the late Ted Stevens, an earmark through NOAA to fund a tsunami warning system. This earmark came under attack in the late 1990s and early 2000 by a few Members as wasteful spending. Of course, in this particular case, as in many others, time and events would prove this to be a wise investment of tax dollars.

We all remember that on December 26, 2004, the Indian Ocean tsunami occurred, killing over 200,000 people in 14 countries. Two years later, the Republican Congress passed and the Bush administration signed into law the Tsunami Warning and Education Act. This legislation was based on the foundation established by the 14 years of earmarking for the Tsunami Hazard Mitigation Program.

A congressional initiative that began in 1998 at the behest of Senator GREGG would lead to the creation of the National Domestic Preparedness Consortium, which is now the principal vehicle through which FEMA identifies, develops, tests, and delivers training to State and local emergency responders. The program began as a series of earmarks for several nationally recognized organizations which focused on counterterrorism preparedness and response needs of the Nation's Federal, State, and local emergency first responders and emergency management agencies. As a result of the training and expertise providing by NDPC members, thousands of New York City first responders had been through counterterrorism preparedness and response training at the centers prior to the 9/11 terrorist attacks.

There are thousands of other earmarks just like these that, over the years, have made a difference in the lives of Americans, projects the bureaucrats in downtown Washington never hear about because they do not communicate with constituents on a regular basis, programs such as the Predator and the Human Genome Project that are so innovative that an unelected, unaccountable government official is reluctant to include them in the budget out of fear that he or she will be accused of wasting taxpayer funds on an unproven technology.

Other Members will be speaking against this amendment and will have examples of why simply stopping all earmarking is wrong and detrimental for government and our citizens. The Founding Fathers bestowed upon Congress the responsibility to determine how our taxes should be spent, rather than leaving those decisions to unelected bureaucrats in the administration, and obviously with good reason. Certainly we can all agree that Members of Congress who return home nearly every weekend to meet with constituents have a much better understanding of what is needed in our cities and towns across rural America than do the bureaucrats sitting in Washington.

For all these reasons, I will continue to defend the right of Congress to direct spending to worthy projects as long as I am privileged to serve in the Senate and call attention to those who distort the facts of the subject.

I urge my colleagues to vote against the Coburn amendment. We have already taken significant and forceful steps to ensure the abuses of the past are not repeated. This amendment ignores those steps while at the same time deprives the Congress of essential constitutional prerogatives. It does nothing to decrease the debt and is designed to give political cover to those who lack a serious commitment to deficit reduction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL OF Colorado. Mr. President, I will take a few minutes, if I can, to speak in favor of the bipartisan earmark moratorium amendment before us. This is the amendment that Senator COBURN, Senator MCCASKILL, Senator MCCAIN, and I have introduced.

I wish to specifically start by talking about what I have heard in Colorado. There is an old saying—I know it is widespread; you hear it all over our great country—that if you are in a hole, you stop digging. That sums up what I have heard from many Coloradans who are justifiably worried about our Federal deficit. I believe we cannot climb out of that hole we have dug for ourselves unless each one of us here in the Senate—and, frankly, across the Rotunda in the U.S. House of Representatives—takes ownership of this problem and agrees to pitch in to solve it.

I have long pushed for the President to have line-item veto authority, and we ought to restate pay-as-you-go spending which served us so well in the 1990s, among other measures. But we can't just continue to talk about these reforms; we need to take action. That is why I have joined a chorus, a growing chorus of legislators on both sides of the aisle to end the practice known as earmarking.

I know many people will argue that earmarking does not significantly contribute to the budget deficit. But, with all due respect, I disagree with that argument, and I believe it misses the point. It is true that earmarks are a tiny fraction of money we spend each year—less than 1 percent of the Federal budget or $16 billion last year, according to numerous watchdogs. It is also true that some earmarks may be worthwhile, even necessary projects. But because earmarks are inserted in spending bills by lawmakers, thereby circumventing the budget process, they are both a symptom and a source of the spending problem in Congress and are emblematic of how poor our budgeting habits have become. Members of Congress have become so focused on protecting their pet projects that they feel pressure to not speak up about Congress's spending habits. In fact, I suggest that earmarks lure Members into habitually voting for increased spending so as not to jeopardize their own earmarks.

In addition, from a practical standpoint, I believe Congress spends its limited time and resources shuffling earmarks when we could be conducting much needed oversight, making our Federal Government leaner and more responsive to the people. This diversion means earmarks are partly to blame for the lack of oversight necessary to ensure that the remaining 99 percent of the Federal budget is well spent. If we had extra money to spend, that would be one thing, but we are truly in a deep fiscal hole, and we need to stop digging. Earmarks are only a small part of why we are in that spending hole, but banning them now, in my view, will be a small but important step toward fiscal discipline.

Ultimately, I believe that all Colorado families, and Americans, are the ones who will be hurt if we do not begin to reform spending and control our debt. We will have many more opportunities to address our crushing deficits in the coming months and years, but banning earmarks is the right place to begin down this path of fiscal responsibility.

I urge my colleagues to support this important small step to fiscal responsibility. It is a bipartisan amendment. I look forward to the vote tomorrow, and I know many of my colleagues are going to join me and this bipartisan group of Senators who believe it is now time to reform this earmarking projects.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa. Just a moment.

The understanding was to alternate between those who are opposed and those who are supporting.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask if I could have 15 minutes.

Mr. INOUYE. I yield 15 minutes.

Mr. HARKIN. Mr. President, I thank the Senator from Hawaii for yielding me 15 minutes of our time.

I challenge anyone—even my friend from Colorado who just spoke, a new Member of this body—I challenge anyone to identify any other part of the Federal budget that is more transparent, more open, more subject to scrutiny, more accessible to the media and the public than congressionally directed funding or earmarks. Every Member who requests an earmark in an appropriations bill must post his or her request online at least 30 days before the Appropriations Committee considers the bill. Every Member who requests an earmark must certify that he or she does not have a pecuniary interest in those requests. Each and every

earmark that comes before the Senate is listed in the committee report for all to see, and if you log on to the committee Web site, you can find a link to every single request any Member has made. It is all out there in the open.

I remind people of this because one of the misleading arguments against congressionally directed earmarks is that they are supposedly done in secret, hidden from the public eye. At one time, that may have been true to some extent but today, thanks to reforms that were implemented by Democrats, by a Democratic House and a Democratic Senate in 2007, there is more sunshine on congressionally directed spending than on any other spending decisions in the entire Federal Government.

There is more sunshine on congressionally directed funding than on any other Federal spending in the entire Federal Government. Why do I emphasize that? Let's consider how the executive branch—the President—directs spending to States and local communities. Make no mistake about it, the executive branch earmarks funding, but there is very little sunshine when it comes to those decisions. They are very hidden.

When a Federal agency announces that a facility should be built in Nebraska rather than Texas or Alabama or whether a defense contract should go to a company in Colorado or Arizona rather than Rhode Island or Ohio, there may be no accountability to voters for those decisions. The employees of Federal agencies are civil servants. They are good people, but they are not elected. They do not meet with constituents. They cannot possibly understand the needs of local communities as well as those who stand for election.

Most important, no one knows when those civil servants get a phone call from their bosses, higher up, telling them, for example, to jiggle, to rig a grant competition for political reasons. Does anyone doubt that is done? Every single year it is done.

Frankly, Senators and Congressmen do it. What Senator worth his or her salt or any Member of the House fighting for their constituency doesn't call up the Secretary of Transportation, Secretary of Housing and Urban Development, Secretary of Defense? We all do it. We all do it to protect our own constituents. And if you happen to be on the right committee—for public works, maybe, or for education or for the myriad of things the Federal Government does—those Secretaries tend to pay attention, and they especially pay attention if they are in the same party you are or they may pay attention if they want your vote for something else.

An example: A few years ago during the Bush administration, I asked the inspector general to examine a program in the Employment and Training Administration called High-Growth Jobs Initiative. It sounds great, doesn't it—High-Growth Jobs Initiative. This was an executive branch program. The IG reported that, of the 157 grants awarded under the program, 134 had been awarded without any competition.

Noncompetitive awards accounted for 87 percent of the total funding, and the inspector general found many serious lapses in the award process. For example, a failure to explain why there was no competition; the lack of any documentation regarding potential conflicts of interest.

So was it any surprise when we found out that some of these noncompetitive grants went to organizations that supported President Bush's reelection campaign or was this just a coincidence? Let's not be naive. This happens. I may have pointed out President Bush because it happened to be an investigation I asked for. It happens under Democratic Presidents too.

If this amendment passes, if the Coburn amendment passes, there will still be earmarks. There will be earmarks, but only the executive branch will be able to do it. They will have the power to designate where those earmarks go, and that flies in the face of the clear intent of the Constitution. Article 1 of the Constitution expressly gives the power of the purse to the Congress. We are all familiar with the principle of checks and balances.

One way the Constitution puts a check on the executive branch is by giving this branch, the legislative branch, the final say on spending. I have said so many times that the President of the United States cannot spend one dime that we do not authorize him to, and we can take it all back if we want. Oh, they have set up an executive branch but only because Congress gives that power to the President.

The Constitution gives Congress the final say on spending. I realize the Constitution may seem like ancient history to some people. I am sorry to say it may seem like ancient history to some Members of this body. So let me paint a picture of a world where only the executive branch can decide to direct Federal spending. Let me paint this picture. Let's imagine the Coburn amendment passes and a future President wants Congress to pass a bill. It can be a Democratic President or it can be a Republican President. It does not matter.

The vote on the bill is going to be close. The President calls Senator Jones and says: Senator, I would like your support on this bill. Senator Jones says: I am sorry, Mr. President, I have thought hard about it. I am not going to be able to support that bill.

Oh, there is probably a little pause on the phone, and the President says: You know, Senator, I know that replacing that bridge in your capital city is real important to you. It would be a real shame if your State missed out when the executive branch is setting its priorities for next year. Now, Senator Jones, would you like to reconsider how you are going to vote on that bill?

That is executive branch earmarking. Again, as I said, it makes no difference whether the President is a Republican or Democrat. It is a matter of respecting the Constitution and preserving the constitutional prerogatives of the legislative branch. Some people say: Well, HARKIN, why do you fight so hard for these earmarks? As Senator UDALL says, it is ½ percent of total Federal spending. I fight so hard because the Constitution gives that power to the legislative branch. We should protect the constitutional prerogatives of the legislative branch, not just willy-nilly give them to any President of the United States, which is what the Coburn amendment does.

Read the amendment carefully. See how it defines ''earmarks.'' It applies only to ''a provision or report language included primarily at the request of a Senator or Member of the House of Representatives.''

There is nothing in the Coburn amendment to prohibit any earmarks by the President. They can earmark anything, and they will because they always do. They will earmark, and guess what. Senators—Senators—will start going to the President and saying: Mr. President, can you, please, I need that bridge. I need that flood control project. We just had a disaster, Mr. President.

Well, Senator, I will think about it when we set our priorities next year. Well, now, Senator, how are you going to vote on my priorities?

Do you want to be in that position? I do not want to be in that position. I want to be in the position where Congress fulfills its Constitutional prerogative. So under the Coburn amendment, if Congress requests, it is an earmark; if the President requests, it is not an earmark. How does that make sense? How does that make sense?

Well, here is an example again of the double standard. The fiscal year 2011 Labor, Health and Human Services, Education appropriations bill that the Senate will probably vote on in December includes funding for national education groups such as Teach for America, Reading is Fundamental, Reach Out and Read, the National Writing Project, and many others. These are successful, proven programs with significant bipartisan support.

But under the definition of the Coburn amendment, all are earmarks and none would be funded. They would all be eliminated. But under the terms of the Coburn amendment, if the President wanted to fund those programs, no problem. They would not be considered earmarks at all and they could receive funding, as long as the President wanted to do it. Again, I ask, what sense does that make?

My State of Iowa had terrible floods in 2008—a lot of damage. Louisiana and Texas have had destructive hurricanes on a regular basis. In the wake of these disasters, typically the Corps of Engineers comes up with a plan to mitigate the damage from future possible disasters. For example, the Corps is now

working to improve a flood prevention program in Cedar Rapids, IA, which was devastated by the worst flood in the history of Iowa in 2008.

If the Coburn amendment passes, whatever the Corps plan comes up with will be final, even if local officials strongly disagree with that. Under the terms of the Coburn amendment, a strong case may be made that any legislative action by Members of Congress to modify the Corps plan would be an earmark—an earmark. Representing my constituents, it would take an extraordinary two-thirds vote in the Senate to change the Corps of Engineers plan—not a majority, not 60 percent but two-thirds of the Senate. Again, I again ask you, what sense does that make? How are we fighting for our constituents when the President decides it; we cannot.

We have local constituents who say: We have better ideas and plans on what to do. The Corps says no. Well, that is the end of it, unless the President tells the Corps what to do. I do not want to lose my ability to intervene effectively for local or State officials when this kind of issue arises, and I do not think Senators from Texas, Louisiana or any other State want to lose their ability to stand for the best interests of their State. I cannot imagine any Senator who would forfeit this important constitutional prerogative, give up, give up your constitutional prerogative to the President, so you would not be able to fight for your State and your constituents. Is that what you are going to tell them?

Proponents of this amendment say: Forget about article 1 of the Constitution. We have to do whatever it takes to cut the deficit. The only way to do that is to ban earmarks.

This is grossly misleading. Yes, we do need to cut the deficit. Banning earmarks will not do anything to help.

Congressionally funded mandates, as I said, are less than one-half of 1 percent of total Federal spending. As one observer noted: The best way to lose weight is to shave. My friend, Senator UDALL, said reforms circumvent the budget process. No, it does not. Nothing we do on appropriations at all circumvents the budget process.

He said: When you are in a hole, stop digging. Well, sure, we can stop digging. We can stop the earmarks here. We are just going to shift them to the President. That is all. That is all that is going to happen.

Lastly, I had to laugh when I read this quote from Representative MICHELE BACHMANN in the House. This was in Congressional Quarterly Today. She is founder of the House Tea Party Caucus, one of several lawmakers who have pledged not to seek earmarks. But she told the Minneapolis Star Tribune she thinks the word ''earmark'' should not apply to infrastructure projects. ''I don't believe that building roads and bridges and interchanges should be considered an earmark.''

Oh, so she gets to decide what is an earmark. She wants no earmarks except for what she wants as an earmark. That is it. Congressman MICA of Florida said: ''There are some bills that require some legislative language to direct the funds, otherwise you're just writing a blank check to the administration.'' That is a Republican Congressman from Florida.

Congressionally directed spending is congressionally directed spending whether it is a highway or a hospital, whether it is in Wyoming or Tennessee. I, for one, am proud of the directed funding that I have been able to secure on behalf of my State and for other States that I have worked hard for or other entities such as Teach for America. It does not necessarily help Iowa but it helps a lot of States.

These fundings have created jobs, trained nurses, built roads, and, as the distinguished chairman said, one time I remember when Pete Domenici put that money in there for the Human Genome Project, it led to the establishment of the Human Genome Institute and a complete mapping and sequencing of the human gene. Had that money not been directed, it never would have happened, I say to my chairman.

So a lot of times Congressmen, Senators have good ideas on what to do to direct some of this funding. I think we ought to be proud of that. As long as the sunshine is on it, it is out in the open, everybody knows where it goes, everybody knows who has requested it, to me, this is the constitutional prerogative of the Senate and the House, and we should not—should not—give it up to any President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent, to get an order so we know what we are doing after we hear from the Senator from Florida, Mr. LEMIEUX, and then the words from the Senator from New Jersey, Mr. LAUTENBERG, that I then would get my 15 minutes from this side to run consecutively from the 15 minutes I would get from the distinguished Senator from Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

Mr. LEMIEUX. Before I start my remarks, I ask unanimous consent to be added as a cosponsor to Senator COBURN's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEMIEUX. Mr. President, it occurs to me that when I address this august Chamber tonight—and I follow my colleagues who have served here for a very long time and with distinction; I am new to this Chamber—I have a different perspective.

But my comments tonight are not meant without respect because I have a great deal of respect for those who have spoken in opposition to this amendment, but I have a differing view. I am new to the Senate, as you know. I came here last year, in 2009. I did not have a specific position on earmarks before I got here. I knew that there was a problem with Federal spending. But I had not yet made a decision as to whether I would support earmarks.

When you hear about a project for your home State, whether it be for a hospital or for a road or for a bridge or for a sewage treatment plant—and for the folks who are at home who are watching this, if they have not yet found Monday Night Football on their television and may have stumbled across C–SPAN, these projects all sound very good, and a lot of them are very good.

I hear from a lot of people in my State wanting me to support a particular project via an earmark. An earmark is a Member-driven appropriation, where a Member of Congress says: I want this specific spending for my home State or for an issue or project that I think is important.

They come to me and they say: We need this project. We need this funding. We need this research. It all sounds good. I think in a world where our financial house was more in order, there could be a role for those earmarks, if transparent.

But I cannot support them in the situation we are in. The chairman of the Appropriations Committee, just a few moments ago in his speech, raised the point that this Congress in last year's budget was $1.3 trillion in deficit.

It is our constitutional responsibility to appropriate. That is what article 1 says. The power of the purse lies in the Congress. Congress has not been doing a very good job—$1.3 trillion in debt, in deficit, in just 1 year. It took 200 years for this country to go $1 trillion in debt. We just incurred a $1.3 trillion deficit.

Those who are in favor of continuing earmarks and who are against this prohibition say: Look, it is just a small percentage; it is $16 billion. In light of a $1.3 trillion deficit, what is a mere $16 billion? Frankly, that argument doesn't ring true with the people of Florida. When one talks to a Floridian and says there is $16 billion in spending, that is still a lot of money to regular people.

But it is more than that. When I came here and started to vote on appropriations bills, in the first few months of 2009, I noticed those appropriations bills were 5, 10, 15, 20 percent more than the last year's appropriations bills. No wonder the country is so far in debt, nearly $14 trillion. It is estimated that by the end of the decade, it will be 26. We spend $200 billion a year on interest now, the debt service on programs we couldn't afford in the past. It will be $900 billion by the end of the decade because the appropriations bills go up and up and up.

I believe, sitting here, with all due respect, and listening to my colleagues, part of the reason those appropriations bills get support is because there are Member projects in them. You can't vote against the bill once your hometown project is in it. It is the engine

that drives the train. So it is not losing weight by shaving, as my distinguished colleague analogized. It is, as Senator MCCAIN said, the gateway drug. It enables the spending we can't afford.

We have to solve these spending problems. The future is in jeopardy. We can't afford $900 billion in interest payments. What will this Congress do when the interest payment alone is $900 billion? This is not 20 years from now. This is not 40 years from now. This is 10 years—really 9 years from now. I contend this government will not function with a $900 billion interest payment.

Maybe this is emblematic, but I believe it is more than that. If we can't do the easy things, how is this Congress going to do the hard things? How is it going to cap spending? How is it going to cut spending?

The President announced today a moratorium on pay increases for Federal employees. That is a good start. But there are 270,000 new Federal employees since this administration took over, according to the Cato Institute, 270,000 new employees with average salaries of about $70,000 a year. We can't nibble around the edges, not with a $1.3 trillion deficit this year alone, and not with $26 trillion staring us in the face by the end of the decade.

The future of the country is at stake. Our Founding Fathers gave this Congress the power of the purse, but with that power comes a responsibility not to run the country into the ground with deficit spending.

This is an important step. It is a first step. It needs to be done. What needs to be tackled next is much more difficult—the across-the-board spending cuts that will have to come, tackling Social Security, tackling Medicare and making sure those programs are there for our seniors now but are reformed in a way that will save them for the future and not run this country into a financial hole it can't get out of. My friend from Colorado, who was courageous to talk on this issue tonight, said: When you are in a hole, stop digging. This is the first step. If we can't take this easy step, I don't know how in the world Congress is going to take the harder steps that must happen if we are going to save this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, it is my understanding that I have 15 minutes to make my presentation. I thank Senator INOUYE for enabling that.

I oppose the Coburn motion to place a 3-year moratorium on earmarks. I thank Chairman INOUYE for his leadership on this issue. It seems, as has been said over the years, that we have heard this song before. If Members really believe these programs are responsible for our terrible fiscal condition, they are wrong. It is make believe. The deficit we are wrestling with had its biggest boost during the Bush years when 8 years of tax cuts for the wealthiest among us brought a $2 trillion increase in the national debt. But we never hear about that.

Earmarks are a vital investment for our communities. They help build levees, dams that protect coastal towns from flooding. Look at the water shortages across the country. A lot of these are helped by earmarks, by congressionally designated programs. We earmark funds for waste and drinking water problems, very serious problems. These are not frivolous ideas. They help police departments, first responders, hospital upgrades, and the purchase of new equipment. Look at transportation. It is falling apart. These earmarks, congressionally designated, build roads, bridges, and rail stations that strengthen our transportation infrastructure. One wouldn't know any of this by listening to the critics of designated funding from those sent here by our States to represent them with a special knowledge of their needs and requirements. These critics have dismissed earmarks as an example of wasteful, runaway government spending. We hear them called dirty programs, et cetera, mocking them.

To these critics I say: I would like you to see what happened in Jersey City, NJ, where an earmark enabled the Metropolitan Family Health Clinic to now screen women for breast cancer for the first time, thanks to new equipment funded by an earmark. Or tell it to the millions of people whose livelihoods are connected to the ports of New York and New Jersey. Earmarks permit us to deepen the harbor at our port so ever larger vessels can bring the cargo to our ports and help stimulate the economy. That means 230,000 jobs and is a critical component of our region's economy. Local communities rely upon this kind of funding in times like these when so many State and community budgets are stretched thin and revenues shrink and even philanthropy is drying up all over the country.

The fact is, hundreds of communities and nonprofit organizations across the country are expecting to receive congressionally earmarked funds for the unfinished fiscal 2011 appropriations bills. The Coburn amendment would pull the rug from underneath these communities, snatching away the Federal support they are counting on us to deliver.

One has only to see the reception of an organization such as Campus Kitchen, a nonprofit project that recently launched in Atlantic City to feed needy families who flock there over Thanksgiving and at the same time help unemployed workers upgrade their job skills. Campus Kitchen is counting on $100,000 worth of congressionally directed funds. If this amendment passes, they will close their doors, and those who need the food and can only get it there will go hungry.

What about the resources needed to protect our residents from terrorism. Hudson County sits just across the river from New York City, right in the heart of one of the most vulnerable areas in the country for terrorism.

This year's Homeland Security appropriations bill includes funding for an emergency operations center so that the county can prepare and respond to emergencies and potential terrorist threats. One of the most serious problems we saw on 9/11, when 3,000 people perished that day, was because the police departments could not talk to one another, because first responders could not talk to one another, because firemen could not talk to their leadership and died that day. Thousands more are now sick from the dust and the atmosphere that was created as a result of the demolition resulting from the attack. This amendment would eliminate funding for this vital program. Yet those who criticize these projects are the very same ones who were all too happy to provide earmarks when they were in charge.

I don't want to fool the public. Let them understand what is going on here. We are seeing raw politics at work. Earmarks make up just one-half of 1 percent of the Homeland Security bill for fiscal year 2011 that was passed by the Senate Appropriations Committee. I was proud to author that bill as the chairman of the subcommittee, building on the work begun by our recently departed Senator Byrd.

Compare this to the fiscal year 2006 bill which was written when our colleagues on the other side controlled the Congress. Under Republican control, earmarks in the Homeland Security appropriations bill were 60 percent higher than the fiscal year 2011 bill.

In addition to funding emergency operations centers, the Homeland Security bill funds important research that helps our Nation discover new ways to prevent potential terrorist attacks and respond when they happen. Earmarks also help to strengthen the Coast Guard whose mission and value continually increase. It is not wasteful spending. Over the years many people have recognized the value of these programs. Democrats and Republicans alike proudly included earmarks for worthwhile projects in their States. In fact, earmarks flourished when the Republicans controlled the Senate. In fiscal year 2006, total funding for earmarks was twice the amount included in last year's bills when Democrats were in charge, and it was Democrats who implemented the ethics reforms and earmark transparency that has significantly improved congressionally designated programs.

Since becoming Appropriations Committee chairman, Senator INOUYE has been a great leader in this office. He has instituted important changes that have made the earmarking process stronger and more transparent. It was an essential factor in our review. At Chairman INOUYE's request, Senators are now required to post their earmark requests on the Internet in advance so

the public can see them. He has brought this entire process further into the light of day, allowing constituents, the news media, and outside watchdog organizations to track how taxpayer dollars are spent.

But a funny thing has occurred. Some of our Republican friends who have used earmarks to serve their constituents for years suddenly have had a change of heart and jumped on the anti-earmark bandwagon. In fact, the Republican leader, who in the past brought home hundreds of millions of dollars to his State of Kentucky, has done an about-face in calling for an earmark ban.

The hypocrisy of these new earmark critics is outrageous. Here is what the critics never mention: Earmarks do not add one cent to the deficit, not a single cent. We heard that from our leader here, from Senator INOUYE.

When Congress includes an earmark in an agency's budget, it is not increasing that budget. It is specifying how a portion of the funding should be spent based on their understanding of their State's needs. After hearing many requests all of us do, they can evaluate which ones they see as the most important. It is a voice of reason and understanding.

The fact is the Founding Fathers gave Congress the power of the purse when they wrote the Constitution. Directing funding to specific projects is one way Congress exercises this power.

If we eliminate earmarks, we will transfer our funding powers to the President, and that is not the way the Constitution is structured. It undermines the authority the Founders placed on us two centuries ago.

The people who work in the Federal agencies here in Washington include some of America's best and brightest, but they simply do not necessarily know the needs of our States as well as we do. This debate over earmarks is nothing more than a distraction from the pressing issues on which we should be focused.

I call on my colleagues to consider the facts and not the rhetoric. Do not be misled. Do not allow the truth to be mangled, misconstrued, and misrepresented. Earmarks help create jobs and help millions of Americans through their lives, especially now in this stressful period where we have people who are afraid they are going to lose their jobs after many years of loyal support or, still, lose their homes because they cannot afford the mortgages they were sold.

So I urge my colleagues to oppose the Coburn amendment because it will not solve a single problem we face. I hope we will use our time for more constructive debate. I would suggest that everybody who talks in opposition to earmarks, congressionally designated programs, say now on this floor—take an oath that you will in your own State announce the fact you are opposing the earmarks that were proposed for it. Tell the people back home that you are going to deny their right to accept these things because it is dirty, because it is unclean, and they say that it goes only to those who contribute large sums of money.

If you want to look at those who contribute large sums of money, look at that side of the aisle. They dwarf what we do in our debate about where funding goes and where funding stops.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LAUTENBERG. Will the Senator yield?

Mr. INHOFE. Let me ask if I could extend my time by 5 minutes. Is there objection?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NOTICE OF INTENT TO OBJECT

Mr. WYDEN. Mr. President, consistent with Senate Standing Orders and my policy of publishing in the RECORD a statement whenever I place a hold on legislation, I am announcing my intention to object to any unanimous consent request to proceed to S. 3804, the Combating Online Infringement and Counterfeits Act, COICA.

Promoting American innovation, and securing its protection, is vital to creating new, good-paying jobs. But it is important that the government reach an appropriate balance between protecting intellectual property and promoting innovation on the one hand and the freedom to innovate, share expression, and promote ideas over the Internet. I am concerned that the current version of COICA has this balance wrong; it attempts to protect intellectual property in the digital arena in a way that could trample free speech and stifle competition and important new innovations in the digital economy.

Of perhaps greater concern, the sweeping new powers offered to the U.S. Department of Justice under COICA are granted without giving due consideration to the consequences. COICA may not only be ineffective at combating copyright infringement and the distribution of counterfeit goods, it gives license to foreign regimes to further censor and filter online content to serve protectionist commercial motives and repressive political aims. Until these issues are thoroughly considered and properly addressed, I will object to a unanimous consent request to proceed to the legislation.

COMBATING MILITARY COUNTERFEITS ACT

Mr. WHITEHOUSE. Mr. President, I rise to speak about a bill I recently introduced: S. 3941, the Combating Military Counterfeits Act of 2010. This bill will help protect America's Armed Forces from the risk of defective equipment by enhancing the ability of prosecutors to keep counterfeit goods out of the military supply chain.

The safety of our servicemembers and the success of their missions depend upon the proper performance of weapon systems, body armor, aircraft parts, and countless other mission-critical products. Unfortunately, America's military faces a significant and growing threat: the infiltration of the military supply chain by counterfeit products. These counterfeit products do not meet military standards, putting troops' lives at risk, compromising military readiness, and costing taxpayers millions in replacement costs. In the case of microelectronics, counterfeit parts also provide an avenue for cybersecurity threats to enter military systems, possibly enabling hackers to disable or track crucial national security applications.

Let me give you a few examples from a recent report by the Government Accountability Office:

The Defense Department discovered in testing that it had procured body armor that was misrepresented as being ''Kevlar.'' Think about that: a criminal sold fake body armor to the military, putting our troops' lives at risk just to make a buck. The law must provide strong deterrence and harsh sanctions for such conduct.

And in another example, a supplier sold the Defense Department a personal computer part that it falsely claimed was a $7,000 circuit that met the specifications of a missile guidance system. As my colleagues may know, military grade chips are required to withstand extreme temperature, force, and vibration. Chips that don't meet those specifications are prone to fail—for example, when a jet is at high altitude, when a missile is launching, or when a GPS unit is out in the field. The possible tragic consequences of such equipment failing are unthinkable.

And the increasing number of counterfeits has broad ramifications for our national security. A January 2010 study by the Commerce Department, for example, quoted a Defense Department official as estimating that counterfeit aircraft parts were ''leading to a 5 to 15 percent annual decrease in weapons systems reliability.'' And the risk is growing. The Commerce Department study, which surveyed military manufacturers, contractors, and distributors, reported approximately two and a half times as many incidents of counterfeit electronics in 2008 as in 2005. It is only going to get worse as the high prices of military grade products attract more and more counterfeits. Consider, for example, that before fleeing the country, the supplier that sold a counterfeit $7,000 circuit for a missile guidance system had been paid $3 million as part of contracts worth a total of $8 million.

We should also evaluate this bill in the context of the relentless cyber attacks America weathers every day. The chip might not only be counterfeit, it might be the carrier for dangerous viruses and malware that may create

windows for enemies to enter to sabotage our military equipment to steal our military secrets.

I applaud those of my colleagues who have been working with the Department of Defense to ensure that it does everything it can to keep counterfeits out of its supply chain. And I am pleased the administration, and particularly the intellectual property enforcement coordinator, Victoria Espinel, is taking on this issue.

But I also believe that Congress needs to give the executive branch more tools to address these problems. As a former U.S. attorney, I know the significant deterrent effect criminal sanctions can provide. To that end, the Department of Justice has a vital role to play in using criminal investigations and prosecutions to identify and deter trafficking in counterfeit military goods.

Current law is insufficient. The existing counterfeit trafficking statute, 18 U.S.C. § 2320, provides for heightened penalties for trafficking in counterfeits that result in bodily injury or death. But unlike cases of counterfeit pharmaceuticals, it may not be possible to prove that a military counterfeit caused bodily injuries or death, since the faulty part may never be recovered from a battlefield. As a result, traffickers in military counterfeits are likely to face penalties that do not reflect the unacceptable risk that counterfeits impose on our troops, our military readiness, and our national and cyber security.

We must address this flaw in our laws and we must do so soon. Traffickers should face stiff penalties if they knowingly sell the military a piece of counterfeit body armor that could fail in combat, a counterfeit missile control system that could short-circuit at launch, or a counterfeit GPS that could fail on the battlefield.

The Combating Military Counterfeits Act of 2010 will make sure that such reprehensible criminals face appropriate criminal sanctions. It creates an enhanced offense for an individual who traffics in counterfeits and knows that the counterfeit product either is intended for military use or is identified as meeting military standards. It doubles the statutory maximum penalty for such offenses. The bill also directs the Sentencing Commission to update the Sentencing Guidelines as appropriate to reflect Congress's intent that trafficking in counterfeit military items be punished sufficiently to deter this reckless endangerment of our servicemembers and weakening of our national security.

The bill is narrowly crafted. It adds to an existing offense so that it only targets particularly malicious offenders—those who already are guilty of trafficking in counterfeit goods and know that the goods in question are intended for military use. As a result, this bill will not affect legitimate military contractors who might be unaware that a counterfeit chip has made its way into one of their products. Nor will it apply to makers of products that unintentionally fall short of military specifications as a result of innocent mistakes. Indeed, this bill will help military suppliers by deterring criminals from selling counterfeits to them or to their subcontractors. Manufacturers will benefit from the protection of their intellectual property.

To that end, I have received a letter of support from the U.S. Chamber of Commerce which explains that ''[t]his legislation would . . . provide an important deterrent to those seeking to profit from the sale of counterfeit parts to the military.'' The Semiconductor Industry Association has similarly weighed in with their support, explaining the irresponsible manner in which counterfeit chips are made and the harm that counterfeit chips, most of which are imported into the United States, can cause to the military and to their industry. I am grateful for their early support and I welcome the comments of other stakeholders as I work to make the legislation as effective as possible in its deterrence of this shameful criminal activity.

I of course also very much look forward to working with my colleagues on what I expect to be bipartisan legislation that we can act on promptly. We all have had the privilege of visiting with our troops. We all know the sacrifices they make for our country. We all want to do everything we can to ensure that their equipment functions properly and that counterfeits do not compromise our nation's military readiness or security. By deterring trafficking in counterfeit military goods, the Combating Military Counterfeits Act of 2010 is a vital and necessary step towards these important goals.

HONORING OUR ARMED FORCES

SPECIALIST DYLAN T. REID

Mr. BENNET. Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SPC Dylan T. Reid. Specialist Reid, who was assigned to the 1st Battalion, 8th Infantry Regiment, 4th Infantry Division, in Fort Carson, CO, died on October 16, 2010. Specialist Reid was serving in support of Operation New Dawn in Amarah, Iraq. He was 24 years old.

A native of Missouri, Specialist Reid graduated from Desert Technology High School in Lake Havasu City, AZ, in 2005 and entered the Army in September 2008. He joined his current unit in April of last year and deployed to Iraq this past March. He was serving his first tour of duty, and quickly showed his commitment and skill.

During more than 2 years of service, Specialist Reid distinguished himself through his courage, dedication to duty, and willingness to take on any job. He was given numerous awards and medals, including the Army Commendation Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Iraq Campaign Medal with Campaign Star, the Global War on Terrorism Service Medal, the Army Service Ribbon, and the Overseas Service Ribbon.

Specialist Reid worked on the front lines of battle, serving in the most dangerous areas of Iraq. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. Friends and loved ones remember how proud Specialist Reid was of his new daughter, Avery. They also remember his love for fixing things and working on cars.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Specialist Reid's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Iraq. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Specialist Reid will forever be remembered as one of our country's bravest.

To Specialist Reid's parents, his wife, his daughter, and his entire family I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Dylan's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

ADDITIONAL STATEMENTS

EASTON, MARYLAND

• Mr. CARDIN. Mr. President, today I ask my colleagues to join me in congratulating the Eastern Shore town of Easton, MD, which is concluding its 300th anniversary celebration.

In 1710, the Assembly of the Province of Maryland chose Easton as the site for a new court house to serve the pre-Revolution population of sea merchants and farmers. Easton was incorporated as a town in Talbot County, MD, in 1790 and serves as the county seat.

Easton is located on the shore of the Tred Avon River that flows into the Chesapeake Bay. It was a bustling port for Eastern Shore agricultural products and seafood for much of its first 200 years. Many of the farms on the Eastern Shore of Maryland had slaves, and it was in Talbot County where Frederick Douglass, the abolitionist, was raised. Because of his national leadership in the abolitionist movement, a statue of Mr. Douglass will soon be erected on the court house lawn in Easton.

Easton remains a cultural and community center for merchants, lawyers, bankers, trades people, farmers, and watermen. Weekend visitors, sailors

and retirees have been added to the mix and continue to enrich the community.

Today, Easton is a country town with urbane sensibilities. A 1786 survey of the town showed that Easton was barely 95 acres, a tiny collection of government offices, residences, and shops surrounded by wide expanses of farms and forests. Today, Easton is comprised of 6,866 acres, home to an airport, medical centers, schools, museums, music, art competitions, the young Chesapeake Film Festival, and the celebrated annual Waterfowl Festival, which fills the closed downtown streets with thousands of bird and art lovers.

I ask my colleagues to join me in saluting the town of Easton, MD, on its 300th birthday.●

TRIBUTE TO NORBERT SEBADE

● Mr. THUNE. Mr. President, today I wish to recognize Norbert Sebade as he celebrates his retirement after 43 years of extraordinary service in the banking community. Norbert is ending a career marked by outstanding community service and longstanding dedication to economic growth and development in the Black Hills through his numerous leadership roles in the banking field and beyond.

Norbert began his banking career in Madison, SD, in the summer of 1967. He quickly distinguished himself as a leader in the industry. Norbert has served as the former President of First Western Bank Wall, former chairman of the board of First Western Bank Custer, vice chairman of the board First Western Bank Sturgis, former board member of South Dakota Bankers Association, SDBA, Insurance Services, former chairman of South Dakota Rural Enterprise, and an appointee to the West River Economic Development Coalition. Additionally, Norbert has focused his attention and energy on the well-being of his communities in other ways, serving as a trustee and former chairman of the Rapid City Regional Hospital, a trustee for the Black Hills State University Foundation in Spearfish, and a board member of the South Dakota Community Foundation. He retires today as the regional president of First Interstate Bank of the Southern Hills.

I would like to thank Norbert for his commitment to South Dakota's communities and congratulate him on a well-deserved retirement.●

MESSAGES FROM THE HOUSE

At 3:35 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 5712) to provide for certain clarifications and extensions under Medicare, Medicaid, and the Children's Health Insurance Program.

ENROLLED BILLS SIGNED

At 6:14 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3689. An act to clarify, improve, and correct the laws relating to copyrights, and for other purposes.

H.R. 5566. An act to amend title 18, United States Code, to prohibit interstate commerce in animal crush videos, and for other purposes.

H.R. 5712. An act entitled the Physician Payment and Therapy Relief Act of 2010.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3985. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8132. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Robert E. Rust, Jr. Model DeHavilland DH.C1 Chipmunk 21, DH.C1 Chipmunk 22, and DH.C1 Chipmunk 22A Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0632)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8133. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Deutschland Ltd and Co KG (RRD) Models Tay 620–15, Tay 650–15, and Tay 651–54 Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2010–0301)) received during adjournment of the Senate in the Office of the President of the Senate on October 29, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8134. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Model MD–11 and MD–11F Airplanes Equipped with General Electric CF6–80C2 Series Engines'' ((RIN2120–AA64)(Docket No. FAA–2008–0403)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8135. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200 and Model A340–200, –300, –500, and –600 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1215)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8136. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls Royce plc RB211 Trent 700 and Trent 800 Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2010–0364)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8137. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Cessna Aircraft Company Model 750 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0380)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8138. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca S.A. ARRIEL 2B and 2B1 Turboshaft Engines'' ((RIN2120–AA64)(Docket No. FAA–2007–28077)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8139. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F Series Reciprocating Engines'' ((RIN2120–AA64)(Docket No. FAA–2010–0342)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8140. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 and 440) Airplanes; Model CL–600–2C10 (Regional Jet Series 700, 701, and 702) Airplanes; Model CL–600–2D15 (Regional Jet Series 705) and Model CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0375)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8141. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; GROB–WERKE (Type Certificate Previously Held by BURKHART GROB Luft—und Raumfahrt) Models G115C, G115D and G115D2 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0260)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8142. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–2B16 (CL–604 Variants (Including CL–605 Marketing Variant)) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0439)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8143. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Aero Engines AG V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–1100)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8144. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pacific Aerospace Limited Models FU24–954 and FU24A–954 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0941)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8145. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0384)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8146. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Model DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, and MD–10–30F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0514)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8147. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Inc., Model CL 600 2B19 (Regional Jet Series 100 & 440) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0276)) received during adjournment of the Senate in the Office of the President of the Senate on October 6, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8148. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Model DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 Airplanes; Model DC–8–50 Series Airplanes; Model DC–8F–54 and DC–8F–55 Airplanes; Model DC–8–60 Series Airplanes; Model DC–8–60F Series Airplanes; Model DC–8–70 Series Airplanes; and Model DC–8–70F Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0639)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8149. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 747–100, 747–200B, and 747–200F Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0552)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8150. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE SYSTEMS (Operations) Limited Model 4101 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0474)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8151. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B4–600 Series Airplanes, Model A300 B4–600R Series Airplanes, Model A300 C4–605R Variant F Airplanes, and Model A300 F4–600R Series Airplanes (Collectively called A300–600 Series Airplanes)'' ((RIN2120–AA64)(Docket No. FAA–2010–0644)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8152. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model DHC–8 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0643)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8153. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model SA–365N, SA–365N1, AS–365N2, AS–365N3, SA–366G1, EC 155B, EC155B1, SA–365C, SA–365C1, SA–365C2, SA–360C Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2010–0610)) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8154. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Positive Train Control Systems'' (RIN2130–AC03) received during adjournment of the Senate in the Office of the President of the Senate on September 30, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8155. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Inflation Adjustment of the Ordinary Maximum and Aggravated Maximum Civil Monetary Penalties for a Violation of the Hazardous Material Transportation Laws and Regulations'' (RIN2130–ZA03) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8156. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Miscellaneous Amendments to the Federal Railroad Administration's Accident/Incident Reporting Requirements'' (RIN2130–AB82) received in the Office of the President of the Senate on October 29, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8157. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Insurer Reporting Requirements; List of Insurers Required to File Reports'' (RIN2127–AK69) received in the Office of the President of the Senate on November 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8158. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages, School Bus Passenger Seating and Crash Protection'' (RIN2127–AK49) received in the Office of the President of the Senate on November 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8159. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Real-Time System Management Information Program'' (RIN2125–AF19) received in the Office of the President of the Senate on November 10, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8160. A communication from the Assistant Chief Counsel for Legislation and Regulations, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Launch Barge Waiver Program'' (RIN2133–AB67) received during adjournment of the Senate in the Office of the President of the Senate on September 30, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8161. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Limiting the Use of Wireless Communication Devices'' (RIN2126–AB22) received during adjournment of the Senate in the Office of the President of the Senate on September 30, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8162. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Miscellaneous Packaging Amendments'' (RIN2137–AD89) received during adjournment of the Senate in the Office of the President of the Senate on September 30, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8163. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Federal Drug Testing Custody and Control Form; Technical Amendment'' (RIN2105–AE03) received during adjournment of the Senate in the Office of the President of the Senate on September 30, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8164. A communication from the Chief of the Policy and Rules Division, Office of

Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Improving Public Safety Communications in the 800 MHz Band'' ((WT Docket No. 02–55)(FCC 10–179)) received in the Office of the President of the Senate on November 1, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8165. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Existing Validated End-User Authorization in the People's Republic of China: Semiconductor Manufacturing International Corporation'' (RIN0694–AF02) received in the Office of the President of the Senate on November 1, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8166. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Grants Pass, Oregon)'' (MB Docket No. 10–117) received during adjournment of the Senate in the Office of the President of the Senate on November 7, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8167. A communication from the Associate Bureau Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Schools and Libraries Universal Services Support Mechanism, A National Broadband Plan for Our Future'' (FCC 10–175) received during adjournment of the Senate in the Office of the President of the Senate on October 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8168. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a report relative to the Board's efforts to prevent organizational waste and mismanagement; to the Committee on Commerce, Science, and Transportation.

EC–8169. A communication from the Deputy Chief Financial Officer, Department of Homeland Security, transmitting, pursuant to law, a report relative to the transfer of funds from the Oil Spill Liability Trust Fund to the Emergency Fund, which is administered by the United States Coast Guard; to the Committee on Commerce, Science, and Transportation.

EC–8170. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, a report relative to certifications granted in relation to the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Commerce, Science, and Transportation.

EC–8171. A communication from the Manager of the Eastern Region, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report relative to a Final Environmental Impact Statement for the proposed Capacity Enhancement Program at the Philadelphia International Airport; to the Committee on Commerce, Science, and Transportation.

EC–8172. A communication from the Secretary of Transportation, transmitting, the Department's Fiscal Year 2009 Annual Report as required by the Superfund Amendments and Reauthorization Act of 1986; to the Committee on Commerce, Science, and Transportation.

EC–8173. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''The Transportation of Hazardous Materials: Insurance, Security, and Safety Costs''; to the Committee on Commerce, Science, and Transportation.

EC–8174. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''National Plan of Integrated Airport Systems (NPIAS) 2011–2015''; to the Committee on Commerce, Science, and Transportation.

EC–8175. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Japan Because of Foot-and-Mouth Disease'' (Docket No. APHIS–2010–0077) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8176. A communication from the Director of the Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Emergency Forest Restoration Program and Emergency Conservation Program'' (RIN0560–AH89) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8177. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Trade Agreements—New Thresholds'' (DFARS Case 2009–D040) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8178. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Safety of Facilities, Infrastructure, and Equipment for Military Operations'' (DFARS Case 2009–D029) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8179. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Balance of Payments Program Exemption for Commercial Information Technology—Construction Material'' (DFARS Case 2009–D041) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8180. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Cost and Software Data Reporting System'' (DFARS Case 2008–D027) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8181. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Contract Authority for Advanced Component Development or Prototype Units'' (DFARS Case 2009–D034) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8182. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Contractor Insurance/Pension Review'' (DFARS Case 2009–D025) received during adjournment in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8183. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Services of Senior Mentors'' (DFARS Case 2010–D025) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Armed Services.

EC–8184. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of General Carrol H. Chandler, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC–8185. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–8186. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–8187. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Operation of the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act 2009 Annual Report to Congress''; to the Committee on Foreign Relations.

EC–8188. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services to Saudi Arabia related to the operation and maintenance of HAWK and PATRIOT Air Defense Missile Systems in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–8189. A communication from the Program Manager, Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act'' (RIN0950–AA17) received in the Office of the President of the Senate on November 17, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–8190. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to transitioning to a value-based purchasing for physicians and other professional services paid under the Medicare physician fee schedule; to the Committee on Health, Education, Labor, and Pensions.

EC–8191. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to

implementation of menu and vending machine labeling; to the Committee on Health, Education, Labor, and Pensions.

EC–8192. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Recruitment, Selection, and Placement (General)'' (RIN3206–AL04) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8193. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Comparative Analysis of Actual Cash Collections to the Revised Revenue Estimate Through the 2nd Quarter of Fiscal Year 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–8194. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Comparative Analysis of Actual Cash Collections to the Revised Revenue Estimate Through the 1st Quarter of Fiscal Year 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–8195. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2010 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–8196. A communication from the Chairman, Merit System Protection Board, transmitting, pursuant to law, a report entitled ''Performance and Accountability Report for FY 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–8197. A communication from the Chairman, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Performance and Accountability Report for fiscal year 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8198. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Department's Performance and Accountability Report for fiscal year 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–8199. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Bureau of Prisons' compliance with the privatization requirements of the National Capital Revitalization and Self-Government Improvement Act of 1997; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 3517. A bill to amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes (Rept. No. 111–354).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 3302. A bill to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BROWN of Ohio (for himself, Mr. DURBIN, Mr. WHITEHOUSE, Mr. MERKLEY, Mr. REED, Mr. MENENDEZ, and Mr. WYDEN):

S. 3979. A bill to amend the Emergency Economic Stabilization Act of 2008 to allow amounts under the Troubled Assets Relief Program to be used to provide legal assistance to homeowners to avoid foreclosure; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENSIGN:

S. 3980. A bill to direct the Secretary of the Interior to transfer to the Secretary of the Navy certain Federal land in Churchill County, Nevada; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. REID, Ms. STABENOW, Mr. REED, Mr. CASEY, Mr. DURBIN, Mrs. MURRAY, Mr. DODD, Mr. KERRY, Mr. BROWN of Ohio, Mrs. BOXER, Mr. SCHUMER, Mr. LAUTENBERG, Mr. FRANKEN, Mr. ROCKEFELLER, Mr. WYDEN, Mr. WHITEHOUSE, Mr. HARKIN, Mrs. SHAHEEN, and Mr. LEVIN):

S. 3981. A bill to provide for a temporary extension of unemployment insurance provisions; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 3982. A bill to amend the limitation on liability for certain passenger rail accidents or incidents under section 28103 of title 49, United States Code, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VOINOVICH:

S. 3983. A bill to authorize the State of Ohio to reprogram grant funds received for intercity passenger rail service pursuant to title XII of the American Recovery and Reinvestment Act of 2009 for other transportation projects; to the Committee on Commerce, Science, and Transportation.

By Mr. REED (for himself, Mr. ENZI, Mr. HARKIN, and Mr. BURR):

S. 3984. A bill to amend and extend the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANDERS (for himself, Mr. REID, Mr. SCHUMER, Mr. LEAHY, Mr. BROWN of Ohio, Mr. LAUTENBERG, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Ms. STABENOW, Mr. BEGICH, Mr. MENENDEZ, and Mr. CASEY):

S. 3985. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; read the first time.

ADDITIONAL COSPONSORS

S. 510

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1545, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1787

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1787, a bill to reauthorize the Federal Land Transaction Facilitation Act, and for other purposes.

S. 2747

At the request of Mr. BINGAMAN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2747, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 2919

At the request of Mr. UDALL of Colorado, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2919, a bill to amend the Federal Credit Union Act to advance the ability of credit unions to promote small business growth and economic development opportunities, and for other purposes.

S. 3184

At the request of Mrs. BOXER, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 3184, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 3320

At the request of Mr. WHITEHOUSE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3324

At the request of Mr. BROWN of Ohio, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3324, a bill to amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit.

S. 3398

At the request of Mr. BAUCUS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3398, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 3626

At the request of Mr. FRANKEN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3626, a bill to encourage the implementation of thermal energy infrastructure, and for other purposes.

S. 3925

At the request of Mr. BINGAMAN, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3925, a bill to amend the Energy Policy and Conservation Act to improve the energy efficiency of, and standards applicable to, certain appliances and equipment, and for other purposes.

S. 3926

At the request of Mr. BENNET, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 3926, a bill to amend the National Trails System Act to provide for the study of the Pike National Historic Trail.

S. 3935

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3935, a bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes.

S. 3960

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 3960, a bill to prevent harassment at institutions of higher education, and for other purposes.

S. 3965

At the request of Ms. STABENOW, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3965, a bill to amend title XVIII of the Social Security Act to ensure continued access to Medicare for seniors and people with disabilities and to TRICARE for America's military families.

AMENDMENT NO. 4697

At the request of Mr. COBURN, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Florida (Mr. LEMIEUX) were added as cosponsors of amendment No. 4697 intended to be proposed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

AMENDMENT NO. 4702

At the request of Mr. JOHANNS, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of amendment No. 4702 intended to be proposed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

AMENDMENT NO. 4713

At the request of Mr. BAUCUS, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of amendment No. 4713 intended to be proposed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

AMENDMENT NO. 4715

At the request of Mr. HARKIN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of amendment No. 4715 proposed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 3982. A bill to amend the limitation on liability for certain passenger rail accidents or incidents under section 28103 of title 49, United States Code, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise to introduce a bill to raise the cap on rail liability in cases of gross negligence. This bill was originally introduced in the House of Representatives by Congressman Elton Gallegly of the 24th District of California, and I thank him for all of his hard work on it.

When Congress passed the Amtrak Reform and Accountability Act in 1997, it included a small provision imposing a strict cap on liability in railroad crashes. The cap is now contained in 49 U.S.C. § 28103 and states that the ''aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed $200,000,000.''

What this means is that regardless of the circumstances no matter how many people are killed or injured in a train crash, and no matter what caused the crash total liability for all of the passengers hurt or killed in the crash cannot exceed $200 million.

The problem is that when a real catastrophe occurs, this number is just not sufficient and there is no way around it.

Let me tell you what happened 2 years ago in California.

On September 12, 2008, a commuter train in Chatsworth, California carrying more than 200 people crashed head-on into a freight train.

The carnage from this crash was unspeakable. Twenty-five people were killed. Their bodies, many torn to pieces, had to be extracted from heaps of steel and wreckage.

Another 101 people were injured. Volunteers and rescue crews worked that day to help pull them from the wreckage. Emergency response agencies transported over 100 people to hospitals. Their injuries ranged from blood in the brain and collapsed lungs to bone fractures, gashes, and scratches.

For some people, the crash was a horrible, harrowing experience, but they have been able to return to the lives they had before.

For others, the families of the 25 people who died and for those who suffered the most serious of injuries, life will never be the same.

According to the final report of the National Transportation Safety Board, NTSB, no unexpected equipment malfunction or weather problem was responsible for this crash.

The National Transportation Safety Board report states: ''the probable cause of the September 12, 2008, collision was the failure of the Metrolink engineer to observe and appropriately respond to the red signal because he was engaged in text messaging that distracted him from his duties.''

The NTSB found, in other words, that the engineer wasn't paying attention, and he sailed through a red signal, crashing head-on into the freight train. In fact, the report finds that he was so busy texting that he never even hit the brakes.

According to the report, on the day of the crash, the engineer sent 21 text messages, received 20 text messages, and made four outgoing telephone calls while he was driving the train.

NTSB wrote,

> the investigation further revealed that this amount of activity was not unusual for this engineer. Wireless records for the 7 days preceding the accident showed that on each workday, the engineer had sent or received text messages or made voice calls during the time he was responsible for operating a train. Two days before the accident, he sent or received about 125 messages during the time he was responsible for operating a train. He had also made phone calls during these periods.

Astoundingly, the NTSB found that ''the content of all of the engineer's text messages over the previous 7 days, including those during and outside the times the engineer was responsible for operating a train, indicated that the engineer and, a teenage boy, had been coordinating to allow, the teenage boy, to operate, Metrolink, train 111 on the evening of the accident.''

Although texting while driving the train was clearly prohibited under the operating rules of Veolia Transportation, who employed and oversaw the engineer under contract with Metrolink, this engineer had been violating these ruled habitually and had not been stopped.

The conductor who worked with the engineer on Metrolink train 111 observed him using his cell phone while driving the train a month before the accident. According to NTSB, ''He said he spoke to the engineer about it and he later brought the incident to the attention of a supervisor.'' But the behavior obviously continued.

Bottom line: The report says the engineer wasn't paying attention to the passengers' safety, he was sending text messages on his cell phone, and no one else took action to stop this dangerous behavior. As a result, 25 people died.

This is unbelievable. And it is unacceptable.

Since the Chatsworth Crash, I have worked to improve rail safety. In October 2008, Congress passed and the President signed the ''Rail Safety Improvement Act,'' which included a key provision that I strongly pushed requiring

mandatory collision-avoidance systems on America's major passenger, commuter, and freight lines.

But this $200 million liability cap remains in place.

That means that under current law, the train operator, Metrolink, and the company that hired and oversaw the engineer, Veolia, believe they only have to pay $200 million total to all of the victims of the Chatsworth crash and their families.

It doesn't matter how tragic the families' losses were. Or how high the survivors' medical bills are. Or how much has been lost in their ability to work and care for their families. The cap is $200 million total, regardless of the circumstances.

This is terrible public policy, should never have been adopted, and needs to be changed.

In a large crash involving hundreds of people and very serious injuries, a court needs to be able to award the damages that it finds are necessary to care for the victims and their families—to pay their medical bills and to compensate for wages they will never again be able to earn.

The bill I am introducing is straightforward. It would raise the liability cap in any case where a court finds gross negligence or willful misconduct to $500 million. And it would do so retroactively to ensure that those who were injured or whose family members were killed are not unfairly deprived of the benefits of what was really the right policy in the first place.

I understand that the rail industry believes that the cap on damages keeps their insurance costs and risk exposure down, and I appreciate all the feedback that has been provided by California's passenger rail systems.

I look forward to working with them to make sure this legislation will not have any unintended consequences. I do not expect this bill to be considered and enacted this week. Facing that reality, I will work with the interested parties, including California High Speed Rail Authority and CalTrain, to further refine this legislation. There will be an opportunity to introduce an improved product as a ''first day bill'' in the next Congress.

But I believe we must do everything we can first to improve safety on our rail lines and second to ensure that when the very worst occurs and people are injured or lose their lives in these accidents, they and their families are fairly compensated.

I urge my colleagues to work with me to amend this law and raise the cap in cases of gross negligence.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCIDENT LIABILITY.

(a) AMENDMENTS.—Section 28103 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by striking ''The aggregate'' and inserting ''Except as provided in paragraph (3), the aggregate'';

(2) by adding at the end of subsection (a) the following:

''(3) The liability cap under paragraph (2) shall be $500,000,000 if the accident or incident was proximately caused by gross negligence or willful misconduct of the defendant. Such amount shall be adjusted annually by the Secretary of Transportation to reflect changes in the Consumer Price Index-All Urban Consumers.''; and

(3) in subsection (c), by striking ''$200,000,000'' and inserting ''$500,000,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for any passenger rail accident or incident occurring on or after September 12, 2008.

By Mr. REED (for himself, Mr. ENZI, Mr. HARKIN, and Mr. BURR):

S. 3984. A bill to amend and extend the Museum and Library Services Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I am pleased to be joined by my colleagues on the Health, Education, Labor, and Pensions Committee—Chairman HARKIN, Ranking Member ENZI, and Senator BURR in introducing the Museum and Library Services Act of 2010.

Together our offices worked to craft a bipartisan bill that updates museum and library services funded through the Institute for Museum and Library Services, IMLS, to better meet the needs of Americans of all ages and in all types of locations.

The Museum and Library Services Act was first enacted in 1996, and my predecessor, the late Senator Claiborne Pell, was instrumental in its development and enactment. This law established IMLS, an independent Federal agency, to oversee funding and programs authorized under the law's two main subtitles, the Library Services and Technology Act, LSTA, and the Museum Services Act.

Libraries and museums are rich centers of learning, woven into the fabric of our communities, big and small, urban and rural.

Libraries are not just places to read and borrow books or for parents to bring their children for story time. During the economic recession, even as libraries are being forced to do more with less, more and more people are also turning to their public libraries for access to information and the Internet, job search and training programs, and business development help.

As noted in the new report, ''Opportunity for All: How the American Public Benefits from Internet Access at U.S. Libraries,'' nearly half of the 169 million visitors to public libraries over the past year used a library computer to connect to the Internet during their visit. Accessing information on education, employment, and health were most commonly cited for this computer and Internet usage.

Museums also provide 21st century learning opportunities, while connecting communities to the culture, science, art, and events that make up humankind's history. The estimated 17,500 museums in the United States reflect the great diversity of our nation. They are large and small; urban and rural; local, national, and international; and include aquariums, arboretums, historical societies, nature centers, zoos, planetariums, art museums, and many other types of museums.

Museums contribute to the quality of life and the economic development of their home communities. They are key partners in offering hands-on, self directed learning for students of all ages. They draw tourism, which contributes to local economies.

The Museum and Library Services Act represents our national commitment to these institutions that are essential to building strong and vibrant communities. Through a relatively modest federal investment, this law helps build capacity to support and expand access to library and museum services at the state and local level.

In Rhode Island, library funding has supported improved online resources; literacy initiatives, including a summer reading program; and the provision of talking books to residents with visual impairments and disabilities. Through museum funding, the Museum of Art at the Rhode Island School of Design, the Preservation Society of Newport, and the Blithewold Mansion, Gardens, and Arboretum have all received support this past year.

The legislation we are introducing updates the law to reflect the education and workforce development role libraries have been playing, including helping the out-of-work look for jobs, equipping business owners with data to make informed business decisions, and helping young and old alike gain critical digital literacy skills—the skills that help to discern fact from fiction when using the Internet.

Our bill will also help enhance training and professional development for librarians and ensure the development of a diverse library workforce, including by authorizing the Laura Bush 21st Century Librarian program, which has been previously funded through annual appropriations.

It will help build state capacity to support museums by authorizing IMLS to support state assessments of museum services and the development and implementation of state plans to improve and enhance those services. Our bill will also strengthen conservation and preservation efforts.

Additionally, it seeks to fully leverage the role of libraries and museums in supporting the learning, educational, and workforce development needs of Americans by requiring IMLS to improve coordination and collaboration with other federal agencies that

also have an interest in and responsibilities for the improvement of museum and libraries and information services.

I thank my colleagues for joining me in this endeavor and urge the Senate to take quick action to adopt this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Museum and Library Services Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Museum and Library Services Act (20 U.S.C. 9101 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL DEFINITIONS.

Section 202 (20 U.S.C. 9101) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) DIGITAL LITERACY SKILLS.—The term 'digital literacy skills' means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.''.

SEC. 102. RESPONSIBILITIES OF DIRECTOR.

Section 204 (20 U.S.C. 9103) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) DUTIES AND POWERS.—

''(1) PRIMARY RESPONSIBILITY.—The Director shall have primary responsibility for the development and implementation of policy to ensure the availability of museum, library, and information services adequate to meet the essential information, education, research, economic, cultural, and civic needs of the people of the United States.

''(2) DUTIES.—In carrying out the responsibility described in paragraph (1), the Director shall—

''(A) advise the President, Congress, and other Federal agencies and offices on museum, library, and information services in order to ensure the creation, preservation, organization, and dissemination of knowledge;

''(B) engage Federal, State, and local governmental agencies and private entities in assessing the museum, library, and information services needs of the people of the United States, and coordinate the development of plans, policies, and activities to meet such needs effectively;

''(C) carry out programs of research and development, data collection, and financial assistance to extend and improve the museum, library, and information services of the people of the United States; and

''(D) ensure that museum, library, and information services are fully integrated into the information and education infrastructures of the United States.'';

(2) by redesignating subsections (f) and (g) as subsections (h) and (i), respectively; and

(3) by striking subsection (e) and inserting the following:

''(e) INTERAGENCY AGREEMENTS.—The Director may—

''(1) enter into interagency agreements to promote or assist with the museum, library, and information services-related activities of other Federal agencies, on either a reimbursable or non-reimbursable basis; and

''(2) use funds appropriated under this Act for the costs of such activities.

''(f) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services. Where appropriate, the Director shall ensure that such policies and activities are coordinated with—

''(1) activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383);

''(2) programs and activities under the Head Start Act (42 U.S.C. 9831 et seq.) (including programs and activities under subparagraphs (H)(vii) and (J)(iii) of section 641(d)(2) of such Act) (42 U.S.C. 9836(d)(2));

''(3) activities under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) (including activities under section 134(c) of such Act) (29 U.S.C. 2864(c)); and

''(4) Federal programs and activities that increase the capacity of libraries and museums to act as partners in economic and community development, education and research, improving digital literacy skills, and disseminating health information.

''(g) INTERAGENCY COLLABORATION.—The Director shall work jointly with the individuals heading relevant Federal departments and agencies, including the Secretary of Labor, the Secretary of Education, the Administrator of the Small Business Administration, the Chairman of the Federal Communications Commission, the Director of the National Science Foundation, the Secretary of Health and Human Services, the Secretary of State, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Housing and Urban Development, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment of the Humanities, and the Director of the Office of Management and Budget, or the designees of such individuals, on—

''(1) initiatives, materials, or technology to support workforce development activities undertaken by libraries;

''(2) resource and policy approaches to eliminate barriers to fully leveraging the role of libraries and museums in supporting the early learning, literacy, lifelong learning, digital literacy, workforce development, and education needs of the people of the United States; and

''(3) initiatives, materials, or technology to support educational, cultural, historical, scientific, environmental, and other activities undertaken by museums.''.

SEC. 103. PERSONNEL.

Section 206 (20 U.S.C. 9105) is amended—

(1) by striking paragraph (2) of subsection (b) and inserting the following:

''(2) NUMBER AND COMPENSATION.—

''(A) IN GENERAL.—The number of employees appointed and compensated under paragraph (1) shall not exceed ⅕ of the number of full-time regular or professional employees of the Institute.

''(B) RATE OF COMPENSATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS–15 of the General Schedule under section 5332 of title 5, United States Code.

''(ii) EXCEPTION.—The Director may appoint not more than 3 employees under paragraph (1) at a rate of basic compensation that exceeds the rate described in clause (i) but does not exceed the rate of basic pay in effect for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.''; and

(2) by adding at the end the following:

''(d) EXPERTS AND CONSULTANTS.—The Director may use experts and consultants, including panels of experts, who may be employed as authorized under section 3109 of title 5, United States Code.''.

SEC. 104. BOARD.

Section 207 (20 U.S.C. 9105a) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (D); and

(ii) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively;

(B) in paragraph (2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking ''(1)(E)'' and inserting ''(1)(D)''; and

(ii) in the matter preceding clause (i) of subparagraph (B), by striking ''(1)(F)'' and inserting ''(1)(E)''; and

(C) in paragraph (4)—

(i) by inserting ''and'' after ''Library Services,''; and

(ii) by striking '', and the Chairman of the National Commission on Library and Information Science'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''Except as otherwise provided in this subsection, each'' and inserting ''Each''; and

(ii) by striking ''(E) or (F)'' and inserting ''(D) or (E)''; and

(B) in paragraph (2), by striking ''INITIAL BOARD APPOINTMENTS.—'' and all that follows through ''The terms of the first members'' and inserting the following: ''AUTHORITY TO ADJUST TERMS.—The terms of the members'';

(3) in subsection (d)—

(A) in paragraph (1), by striking ''relating to museum and library services, including financial assistance awarded under this title'' and inserting ''relating to museum, library, and information services''; and

(B) by striking paragraph (2) and inserting the following:

''(2) NATIONAL AWARDS AND MEDALS.—The Museum and Library Services Board shall advise the Director in awarding national awards and medals under section 209.''; and

(4) in subsection (i), by striking ''take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government'' and inserting ''coordinate the development and implementation of policies and activities as described in subsections (f) and (g) of section 204''.

SEC. 105. AWARDS AND MEDALS.

Section 209 (20 U.S.C. 9107) is amended to read as follows:

''SEC. 209. AWARDS AND MEDALS.

''The Director, with the advice of the Museum and Library Services Board, may annually award national awards and medals for library and museum services to outstanding libraries and museums that have made significant contributions in service to their communities.''.

SEC. 106. RESEARCH AND ANALYSIS.

Section 210 (20 U.S.C. 9108) is amended to read as follows:

''SEC. 210. POLICY RESEARCH, ANALYSIS, DATA COLLECTION, AND DISSEMINATION.

''(a) IN GENERAL.—The Director shall annually conduct policy research, analysis, and data collection to extend and improve the Nation's museum, library, and information services.

''(b) REQUIREMENTS.—The policy research, analysis, and data collection shall be conducted in ongoing collaboration (as determined appropriate by the Director), and in consultation, with—

''(1) State library administrative agencies;

''(2) national, State, and regional library and museum organizations; and

''(3) other relevant agencies and organizations.

''(c) OBJECTIVES.—The policy research, analysis, and data collection shall be used to—

''(1) identify national needs for and trends in museum, library, and information services;

''(2) measure and report on the impact and effectiveness of museum, library, and information services throughout the United States, including the impact of Federal programs authorized under this Act;

''(3) identify best practices; and

''(4) develop plans to improve museum, library, and information services of the United States and to strengthen national, State, local, regional, and international communications and cooperative networks.

''(d) DISSEMINATION.—Each year, the Director shall widely disseminate, as appropriate to accomplish the objectives under subsection (c), the results of the policy research, analysis, and data collection carried out under this section.

''(e) AUTHORITY TO CONTRACT.—The Director is authorized—

''(1) to enter into contracts, grants, cooperative agreements, and other arrangements with Federal agencies and other public and private organizations to carry out the objectives under subsection (c); and

''(2) to publish and disseminate, in a form determined appropriate by the Director, the reports, findings, studies, and other materials prepared under paragraph (1).

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $3,500,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016.

''(2) AVAILABILITY OF FUNDS.—Sums appropriated under paragraph (1) for any fiscal year shall remain available for obligation until expended.''.

SEC. 107. HEARINGS.

Subtitle A (20 U.S.C. 9101 et seq.) is amended by adding at the end the following:

''SEC. 210B. HEARINGS.

''The Director is authorized to conduct hearings at such times and places as the Director determines appropriate for carrying out the purposes of this subtitle.''.

SEC. 108. ADMINISTRATIVE FUNDS.

Subtitle A (20 U.S.C. 9101 et seq.), as amended by section 107, is further amended by adding at the end the following:

''SEC. 210C. ADMINISTRATIVE FUNDS.

''Notwithstanding any other provision of this Act, the Director shall establish one account to be used to pay the Federal administrative costs of carrying out this Act, and not more than a total of 7 percent of the funds appropriated under sections 210(f), 214, and 275 shall be placed in such account.''.

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

SEC. 201. PURPOSES.

Section 212 (20 U.S.C. 9121) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) to enhance coordination among Federal programs that relate to library and information services;'';

(2) in paragraph (2), by inserting ''continuous'' after ''promote'';

(3) in paragraph (3), by striking ''and'' after the semicolon;

(4) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

''(5) to promote literacy, education, and lifelong learning and to enhance and expand the services and resources provided by libraries, including those services and resources relating to workforce development, 21st century skills, and digital literacy skills;

''(6) to enhance the skills of the current library workforce and to recruit future professionals to the field of library and information services;

''(7) to ensure the preservation of knowledge and library collections in all formats and to enable libraries to serve their communities during disasters;

''(8) to enhance the role of libraries within the information infrastructure of the United States in order to support research, education, and innovation; and

''(9) to promote library services that provide users with access to information through national, State, local, regional, and international collaborations and networks.''.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 214 (20 U.S.C. 9123) is amended—

(a) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated—

''(1) to carry out chapters 1, 2, and 3, $232,000,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016; and

''(2) to carry out chapter 4, $24,500,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016.''; and

(b) by striking subsection (c).

SEC. 203. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) (20 U.S.C. 9131(b)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking ''$340,000'' and inserting ''$680,000''; and

(B) by striking ''$40,000'' and inserting ''$60,000'';

(2) by striking subparagraph (C); and

(3) by redesignating subparagraph (D) as subparagraph (C).

SEC. 204. STATE PLANS.

Section 224 (20 U.S.C. 9134) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) after paragraph (5), by inserting the following:

''(6) describe how the State library administrative agency will work with other State agencies and offices where appropriate to coordinate resources, programs, and activities and leverage, but not replace, the Federal and State investment in—

''(A) elementary and secondary education, including coordination with the activities within the State that are supported by a grant under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383);

''(B) early childhood education, including coordination with—

''(i) the State's activities carried out under subsections (b)(4) and (e)(1) of section 642 of the Head Start Act (42 U.S.C. 9837); and

''(ii) the activities described in the State's strategic plan in accordance with section 642B(a)(4)(B)(i) of such Act (42 U.S.C. 9837b(a)(4)(B)(i));

''(C) workforce development, including coordination with—

''(i) the activities carried out by the State workforce investment board under section 111(d) of the Workforce Investment Act of 1998 (29 U.S.C. 2821(d)); and

''(ii) the State's one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)); and

''(D) other Federal programs and activities that relate to library services, including economic and community development and health information;''; and

(2) in subsection (e)(2), by inserting '', including through electronic means'' before the period at the end.

SEC. 205. GRANTS.

Section 231 (20 U.S.C. 9141) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting before the semicolon the following: ''in order to support such individuals' needs for education, lifelong learning, workforce development, and digital literacy skills'';

(B) in paragraph (2), by striking ''electronic networks;'' and inserting ''collaborations and networks; and'';

(C) by redesignating paragraph (2) (as amended by subparagraph (B)) as paragraph (7), and by moving such paragraph so as to appear after paragraph (6);

(D) by striking paragraph (3);

(E) by inserting after paragraph (1) the following:

''(2) establishing or enhancing electronic and other linkages and improved coordination among and between libraries and entities, as described in section 224(b)(6), for the purpose of improving the quality of and access to library and information services;

''(3)(A) providing training and professional development, including continuing education, to enhance the skills of the current library workforce and leadership, and advance the delivery of library and information services; and

''(B) enhancing efforts to recruit future professionals to the field of library and information services;'';

(F) in paragraph (5), by striking ''and'' after the semicolon;

(G) in paragraph (6), by striking the period and inserting a semicolon; and

(H) by adding at the end the following:

''(8) carrying out other activities consistent with the purposes set forth in section 212, as described in the State library administrative agency's plan.''; and

(2) by striking subsection (b) and inserting the following:

''(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the priorities described in subsection (a) as appropriate to meet the needs of the individual State.''.

SEC. 206. GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a) (20 U.S.C. 9162(a)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) building workforce and institutional capacity for managing the national information infrastructure and serving the information and education needs of the public;

''(2)(A) research and demonstration projects related to the improvement of libraries or the enhancement of library and information services through effective and efficient use of new technologies, including projects that enable library users to acquire digital literacy skills and that make information resources more accessible and available; and

''(B) dissemination of information derived from such projects;''; and

(2) in paragraph (3)—

(A) by striking ''digitization'' and inserting ''digitizing''; and

(B) by inserting '', including the development of national, regional, statewide, or local emergency plans that would ensure the preservation of knowledge and library collections in the event of a disaster'' before ''; and''.

SEC. 207. LAURA BUSH 21ST CENTURY LIBRARIAN PROGRAM.

Subtitle B (20 U.S.C. 9121 et seq.) is amended by adding at the end the following:

''CHAPTER 4—LAURA BUSH 21ST CENTURY LIBRARIANS

''SEC. 264. LAURA BUSH 21ST CENTURY LIBRARIAN PROGRAM.

''(a) PURPOSE.—It is the purpose of this chapter to develop a diverse workforce of librarians by—

''(1) recruiting and educating the next generation of librarians, including by encouraging middle or high school students and postsecondary students to pursue careers in library and information science;

''(2) developing faculty and library leaders, including by increasing the institutional capacity of graduate schools of library and information science; and

''(3) enhancing the training and professional development of librarians and the library workforce to meet the needs of their communities, including those needs relating to literacy and education, workforce development, lifelong learning, and digital literacy.

''(b) ACTIVITIES.—From the amounts provided under section 214(a)(2), the Director may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with libraries, library consortia and associations, institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), and other entities that the Director determines appropriate, for projects that further the purpose of this chapter, such as projects that—

''(1) increase the number of students enrolled in nationally accredited graduate library and information science programs and preparing for careers of service in libraries;

''(2) recruit future professionals, including efforts to attract promising middle school, high school, or postsecondary students to consider careers in library and information science;

''(3) develop or enhance professional development programs for librarians and the library workforce;

''(4) enhance curricula within nationally accredited graduate library and information science programs;

''(5) enhance doctoral education in order to develop faculty to educate the future generation of library professionals and develop the future generation of library leaders; and

''(6) conduct research, including research to support the successful recruitment and education of the next generation of librarians.

''(c) EVALUATION.—The Director shall establish procedures for reviewing and evaluating projects supported under this chapter.''.

SEC. 208. CONFORMING AMENDMENTS.

The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951 et seq.) is amended—

(1) in section 4(a) (20 U.S.C. 953(a)), by striking ''Institute of Museum Services'' and inserting ''Institute of Museum and Library Services''; and

(2) in section 9 (20 U.S.C. 958), by striking ''Institute of Museum Services'' each place the term appears and inserting ''Institute of Museum and Library Services''.

TITLE III—MUSEUM SERVICES

SEC. 301. PURPOSE.

Section 272 (20 U.S.C. 9171) is amended—

(1) in paragraph (3), by inserting ''through international, national, regional, State, and local networks and partnerships'' after ''services'';

(2) in paragraph (5), by striking ''and'' after the semicolon;

(3) in paragraph (6), by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

''(7) to encourage and support museums as a part of economic development and revitalization in communities;

''(8) to ensure museums of various types and sizes in diverse geographic regions of the United States are afforded attention and support; and

''(9) to support efforts at the State level to leverage museum resources and maximize museum services.''.

SEC. 302. DEFINITIONS.

Section 273(1) (20 U.S.C. 9172(1)) is amended by inserting ''includes museums that have tangible and digital collections and'' after ''Such term''.

SEC. 303. MUSEUM SERVICES ACTIVITIES.

Section 274 (20 U.S.C. 9173) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting '', States, local governments,'' after ''with museums'';

(B) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively;

(C) by striking paragraphs (3) and (4) and inserting the following:

''(3) supporting the conservation and preservation of museum collections, including efforts to—

''(A) provide optimal conditions for storage, exhibition, and use;

''(B) prepare for and respond to disasters and emergency situations;

''(C) establish endowments for conservation; and

''(D) train museum staff in collections care;

''(4) supporting efforts at the State level to leverage museum resources, including statewide assessments of museum services and needs and development of State plans to improve and maximize museum services through the State;

''(5) stimulating greater collaboration, in order to share resources and strengthen communities, among museums and—

''(A) libraries;

''(B) schools;

''(C) international, Federal, State, regional, and local agencies or organizations;

''(D) nongovernmental organizations; and

''(E) other community organizations;'';

(D) in paragraph (6) (as redesignated by subparagraph (B)), by striking ''broadcast media'' and inserting ''media, including new ways to disseminate information,''; and

(E) in paragraph (9) (as redesignated by subparagraph (B)), by striking ''at all levels,'' and inserting '', and the skills of museum staff, at all levels, and to support the development of the next generation of museum leaders and professionals,''; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following:

''(2) GRANT DISTRIBUTION.—In awarding grants, the Director shall take into consideration the equitable distribution of grants to museums of various types and sizes and to different geographic areas of the United States''; and

(C) in paragraph (2)—

(i) in subparagraph (A), by striking ''awards''; and

(ii) in subparagraph (B), by striking '', but subsequent'' and inserting ''. Subsequent''.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 275 (20 U.S.C. 9176) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director $38,600,000 for fiscal year 2011 and such sums as may be necessary for each of the fiscal years 2012 through 2016.'';

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (b); and

(4) by adding at the end the following:

''(c) FUNDING RULES.—Notwithstanding any other provision of this subtitle, if the amount appropriated under subsection (a) for a fiscal year is greater than the amount appropriated under such subsection for fiscal year 2011 by more than $10,000,000, then an amount of not less than 30 percent but not more than 50 percent of the increase in appropriated funds shall be available, from the funds appropriated under such subsection for the fiscal year, to enter into arrangements under section 274 to carry out the State assessments described in section 274(a)(4) and to assist States in the implementation of such plans.''.

TITLE IV—REPEAL OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT

SEC. 401. REPEAL.

(a) IN GENERAL.—The National Commission on Libraries and Information Science Act (20 U.S.C. 1501 et seq.) is repealed.

(b) TRANSFER OF FUNCTIONS.—The functions that the National Commission on Libraries and Information Science exercised before the date of enactment of this Act shall be transferred to the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act (20 U.S.C. 9102).

(c) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel and the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available

to, or to be made available for the functions and activities vested by law in the National Commission on Libraries and Information Science shall be transferred to the Institute of Museum and Library Services upon the date of enactment of this Act.

(d) REFERENCES.—Any reference to the National Commission on Libraries and Information Science in any Federal law, Executive Order, rule, delegation of authority, or document shall be construed to refer to the Institute of Museum and Library Services when the reference regards functions transferred under subsection (b).

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed floor privileges during consideration of the food safety bill: James Baker, Mary Baker, Will Kellogg, Nicole Lemire, Deborah Ma, Brychan Manry, Nicole Marchman, Jack McGillis, Kane Ossorio, and Lisa Yen.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that Monica Anatalio, a detailee to the Committee on Homeland Security and Governmental Affairs, be granted floor privileges for the reminder of this session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUPPORTING THE GOALS AND IDEALS OF AMERICAN DIABETES MONTH

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Health, Education, Labor, and Pensions Committee be discharged from further consideration of S. Res. 676, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 676) supporting the goals and ideals of American Diabetes Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LAUTENBERG. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 676) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 676

Whereas according to the Centers for Disease Control (referred to in this preamble as the ''CDC''), nearly 24,000,000 people of the United States have diabetes and 57,000,000 people of the United States have pre-diabetes;

Whereas diabetes is a serious chronic condition that affects people of every age, race, ethnicity, and income level;

Whereas the CDC reports that Hispanic, African, Asian, and Native Americans are disproportionately affected by diabetes and suffer from diabetes at rates that are much higher than the general population;

Whereas according to the CDC, 3 people are diagnosed with diabetes every minute;

Whereas each day, approximately 4,384 people are diagnosed with diabetes;

Whereas in 2007, the CDC estimates that approximately 1,600,000 individuals aged 20 and older were newly diagnosed with diabetes;

Whereas a joint National Institutes of Health and CDC study found that approximately 15,000 youth in the United States are diagnosed with type 1 diabetes annually and approximately 3,700 youth are diagnosed with type 2 diabetes annually;

Whereas according to the CDC, between 1980 and 2007, diabetes prevalence in the United States increased by more than 300 percent;

Whereas the CDC reports that over 24 percent of individuals with diabetes are undiagnosed, a decrease from 30 percent in 2005;

Whereas the National Diabetes Fact Sheet issued by the CDC states that more than 10 percent of adults of the United States and 23.1 percent of people of the United States age 60 and older have diabetes;

Whereas the CDC estimates that 1 in 3 people of the United States born in the year 2000 will develop diabetes in the lifetime of that individual;

Whereas the CDC estimates that 1 in 2 Hispanic, African, Asian, and Native Americans born in the year 2000 will develop diabetes in the lifetime of that individual;

Whereas according to the American Diabetes Association, in 2007, the total cost of diagnosed diabetes in the United States was $174,000,000,000, and 1 in 10 dollars spent on health care was attributed to diabetes and its complications;

Whereas according to a Lewin Group study, in 2007, the total cost of diabetes (including both diagnosed and undiagnosed diabetes, pre-diabetes, and gestational diabetes) was $218,000,000,000;

Whereas a Mathematica Policy study found that, for each fiscal year, total expenditures for Medicare beneficiaries with diabetes comprise 32.7 percent of the Medicare budget;

Whereas according to the CDC, diabetes was the seventh leading cause of death in 2007 and contributed to the deaths of over 230,000 Americans in 2005;

Whereas there is not yet a cure for diabetes;

Whereas there are proven means to reduce the incidence of, and delay the onset of, type 2 diabetes;

Whereas with the proper management and treatment, people with diabetes live healthy, productive lives; and

Whereas American Diabetes Month is celebrated in November: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of American Diabetes Month, including—

(A) encouraging the people of the United States to fight diabetes through public awareness about prevention and treatment options; and

(B) increasing education about the disease;

(2) recognizes the importance of early detection of diabetes, awareness of the symptoms of diabetes, and the risk factors that often lead to the development of diabetes, including—

(A) being over the age of 45;

(B) having a specific racial and ethnic background;

(C) being overweight;

(D) having a low level of physical activity level;

(E) having high blood pressure; and

(F) having a family history of diabetes or a history of diabetes during pregnancy; and

(3) supports decreasing the prevalence of type 1, type 2, and gestational diabetes in the United States through increased research, treatment, and prevention.

COMMEMORATING THE 100TH ANNIVERSARY OF THE WEEKS LAW

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration and the Senate now proceed to S. Res. 679.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 679) commemorating the 100th anniversary of the Weeks Law.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LAUTENBERG. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 679) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 679

Whereas the 100th anniversary of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 552 et seq.), marks one of the most significant moments in conservation and Forest Service history;

Whereas New Hampshire, along with the southern Appalachians, was at the center of efforts to pass the Weeks Law;

Whereas John Wingate Weeks, sponsor of the Weeks Law, was born in Lancaster, New Hampshire, and maintained a summer home there that is now Weeks State Park;

Whereas, in 1903, the Appalachian Mountain Club, and the newly formed Society for the Protection of New Hampshire's Forests, helped draft a bill for the creation of a forest reserve in the White Mountains;

Whereas passage of the Weeks Law on March 1, 1911, was made possible by an unprecedented collaboration of a broad spectrum of interests, including the Appalachian Mountain Club, the Society for the Protection of New Hampshire Forests, industrialists, small businesses, and the tourist industry;

Whereas, in 1914, the first 7,000 acres of land destined to be part of the White Mountain National Forest were acquired in Benton, New Hampshire, under the Weeks Law;

Whereas national forests were established and continue to be managed as multiple use public resources, providing recreational opportunities, wildlife habitat, watershed protection, and renewable timber resources;

Whereas the forest conservation brought about by the Weeks Law encouraged and inspired additional conservation by State and

local government as well as private interests, further protecting the quality of life in the United States;

Whereas the White Mountain National Forest continues to draw millions of visitors annually who gain a renewed appreciation of the inherent value of the outdoors;

Whereas the multiple values and uses supported by the White Mountain National Forest today are a tribute to the collaboration of 100 years ago, an inspiration for the next 100 years, and an opportunity to remind the people of the United States to work together toward common goals on a common landscape; and

Whereas President Theodore Roosevelt stated ''We want the active and zealous help of every man far-sighted enough to realize the importance from the standpoint of the nation's welfare in the future of preserving the forests'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the significance of the 100th anniversary of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 552 et seq.), to the history of conservation and the power of cooperation among unlikely allies;

(2) encourages efforts to celebrate the centennial in the White Mountain National Forest with a focus on the future as well as to commemorate the past; and

(3) encourages continued collaboration and cooperation among Federal, State, and local governments, as well as business, tourism, and conservation interests, to ensure that the many values and benefits flowing from the White Mountain National Forest today to the citizens of New Hampshire, and the rest of the United States, are recognized and supported in perpetuity.

MEASURE READ THE FIRST TIME—S. 3985

Mr. LAUTENBERG. I understand that S. 3985 introduced earlier by Senator SANDERS is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3985) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Mr. LAUTENBERG. I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read the second time the next legislative day.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 107–12, appoints the following individual as a member of the Public Safety Officer Medal of Valor Review Board: Albert H. Gillespie of Nevada vice Thomas J. Scotto of New York.

ORDERS FOR TUESDAY, NOVEMBER 30, 2010

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Tuesday, November 30; that following the prayer and pledge, the Journal of Proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of S. 510, the FDA Food Safety Modernization Act, as provided for under the previous order; that upon disposition of S. 510, the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each; further, that the Senate recess from 12:30 until 4 p.m. to allow for the party caucus meetings; and finally, I ask that Senator DODD be recognized to speak at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LAUTENBERG. Mr. President, Senators should expect a series of up to three rollcall votes beginning at approximately 9:15 tomorrow. The votes will be in relation to two Coburn motions to suspend the rules and on the passage of the FDA Food Safety Modernization Act.

ORDER FOR ADJOURNMENT

Mr. LAUTENBERG. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order following the remarks of the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

EARMARKS

Mr. INHOFE. Mr. President, first of all, I appreciate the fact no one objected to my unanimous consent request that I will be taking my 15 minutes from this side and 15 minutes from the other side and run them together. I appreciate that very much.

Let me say, before getting into this subject, something really great happened today in a bipartisan nature. We have a new Governor who will be coming in to Oklahoma, MARY FALLIN, who used to serve over in the House. In fact, I flew her around in my airplane and helped her campaign, and she won handily.

She made her first—she is still Governor-elect, but she made her first commitment today, and I was very excited about it. We have a guy in Oklahoma named Gary Ridley who has been the highway director and then the secretary of transportation in the State now for years and years and years. I was so proud that today she said she was going to reappoint him.

I can remember 8 years ago when Governor Brad Henry, who is a Democrat, was elected. I called him up and I said: I only have one request, and that is you keep Gary Ridley because he's the best there is in the Nation, and I really believe that. Now, 8 years later, she has done this.

I remember when I was critical of President Clinton in 1998 when he took $8 billion out of the highway trust fund and put it into deficit reduction. It was something that was the wrong thing to do, and Gary Ridley stood by my side for 8 years before we were able to correct that. So we are going to have a great road program and hopefully we will be able to get into some of these things. After all, that is what we are supposed to be doing.

In a minute I am going to kind of identify myself as a different type of person than you have been hearing from on the floor. I happen to have the distinction of being the only Republican who objected in our conference a couple weeks ago to the ban on earmarks, as they define it. I just had no problem doing that at all. But it is something that is not a fun thing to do.

Something happened tonight that went completely by everybody. It was a total change in the Republican position, and it is a good change when Senator MCCAIN and Senator COBURN both talked about authorization. I have often said that authorization is the only discipline on appropriations, and I believe that, and that is true. So we have a situation where I have been saying—not for months but for years—that if you will just define an earmark as an appropriations that has not been authorized, I am with you. I heard them tonight say that. Unfortunately, that is not what the bill that we are going to have before us says.

I would just like to do away with the whole word ''earmarks'' or else define it in such a way as I just described it. Now it seems as if everybody would be in agreement with it, and maybe that is going to be the road we will be taking.

Let me, first of all, before I surprise a lot of people, give my conservative credentials. I have always been ranked as one of the most conservative or the most conservative Member of the U.S. Senate, the National Journal's most conservative Senator for 2009. That is the last one they gave out: ''The only Senator with a perfect score on 99 key votes.'' I have also been voted the ''most outstanding U.S. Senator'' by Human Events.

So I am a conservative. I am a conservative but a conservative who loves the Constitution. I have also been waiting for a long time. I love these guys. Certainly the author of this, Senator COBURN, is a brother and I love him. And brothers do fight sometimes. This fight is going to be over with and we are going to have a happy ending.

I have been waiting for years for this Tea Party thing to happen, for conservatives, anti-establishment people to come in, and I just get very excited when I see what we are looking at. Yet we have an administration with a majority in both Houses that we have had

now for quite some time: spend, spend, spend. When they talk about George W. Bush, look, it is this administration with the increase in the debt to the amount it is now, which is a greater increase in debt than we have had collectively with every President, every administration from George Washington to George W. Bush.

All the time, they have been talking about earmarks that totally distract people from the real problem. That is not the problem. I have been listening on the floor now for the last 2 years. Every night we go through the same thing. They talk about earmarks, earmarks, earmarks. What they do not do is pay attention to the fact that during that discussion this President, with his majority in both Houses, was able to give my 20 kids and grandkids a $3 trillion deficit in 1 year. It is mind-boggling that this could happen. But we hear the President say: Spend, spend, spend. And he has used the words quite often: We need to give the people what they desire. It reminds me of the story of the guy who went in the department store and there was a beautiful, young, voluptuous saleslady who came up and said: Sir, what is your desire? He said: Well, my desire is to pick you up after work and go to a fine restaurant, have dinner, and buy a bottle of champagne, go to my place, and make mad passionate love. But I need a pair of socks.

Now, what we are going to have to understand is, there is a difference between desire and need. That is what I am here to try to do. To think we could actually have said today—now, the bill does not do this, but it was said that authorizing is kind of a lost art. Senator MCCAIN said that. Frankly, I do not quite agree with that because we have an authorization committee in Armed Services of which he is the ranking member, and I am the second ranking member, and it is something on which we have done a pretty good job. But in other areas we have not. Keep in mind, authorizing is the only discipline that there is to appropriating.

Now, I have a family picture I show you in the Chamber. These are my 20 kids and grandkids. I have to tell the occupier of the chair that I was so proud to have all of them at one table on Thanksgiving. How many people are blessed that way? Not many. But this little guy here—where is Jase Rapert. Here he is down there on the picture, the football guy.

He came up to me one time—this is some time ago—and he said: PopI—''I'' is for ''Inhofe.'' So MomI and PopI. He said: PopI, why is it you do things no one else will? I said: That's the reason, because no one else will.

I am reminded of 9 years ago when everybody—I am talking about Democrats and Republicans—all said global warming is coming. The world is coming to an end. It is manmade gases that cause global warming. I looked into the science. At that time Republicans were in the majority. I was the chairman of the Environment and Public Works Committee that has that jurisdiction. I looked at that and I found out they were cooking the science, that it was not true.

Then we had the McCain-Lieberman bill and all these things that would pass a cap and trade which would constitute the largest tax increase in the history of this country. We beat them one at a time. The last one was Waxman-Markey. But, again, this has been something that has finally evolved, that that one, my voice in the wilderness 10 years ago, is now the prevailing thought. That is why I said to my little grandson, Jase Rapert, that I do it because no one else will.

So let me just say this. How much more fun it would be to come down here and do the politically correct thing and say: yes, earmarks are bad, earmarks are bad, earmarks are bad. We are going to do away with earmarks, and let everyone applaud before they realize what it really is.

I hear the staffers right now telling their Members: You know, you have the greatest opportunity. You can vote for this amendment to ban these earmarks and you can make people think you are conservative, No. 1. No. 2, you can make President Obama happy because he is publicly supporting this. This is what he wants because this means, as has been said by Senator LAUTENBERG, Senator HARKIN, and several others, if we do not do it, that goes to the President. I want to explain how that works in just a minute.

We could also be politically correct, so there would be a lot of them thinking: What an opportunity this is. People will think, if I vote for this amendment, I am a conservative. Obviously, I can make our President happy. That will do me no harm, and I can be politically correct.

Well, it has been demagoging now for so many years. Let me define what Webster's Third New International Dictionary says about demagogy. The definition of demagogy: ''Political leaders who seek to gain personal or partisan advantage through specious, extravagant claims, promises and charges.'' That is what we have been listening to now for at least the last 2 years, on a regular basis.

The big problem I have with all the demagoging that has been going on every night for the last 2 years is that people are just not paying attention to the real problem. The real problem is not earmarks. The real problem is that during that 2-year period—when everyone is concerned about a few dollars—we found out we have increased the debt more than it has been increased in the history of this country, and we have given my 20 kids and grandkids a $3 trillion deficit in just 2 years. I thought that was not possible. I never believed that could happen. But that is what has happened here. They have distracted people. Get this thing behind us so we can start working on this and not make people think we are doing something great for them when we really are not. It would be nothing short of criminal to go through all the trouble of electing great, new anti-establishment conservatives, only to be politically correct and have them cede to Obama their constitutional power of the purse. That is exactly what would happen.

I want these new people coming in to tackle the three issues to really save America, in my opinion the deficit, the debt, and Obamacare, and not be distracted by the bogus issue of earmarks. I say ''bogus.'' It is kind of a strong word. Why is it bogus? It is bogus and unconstitutional, but the bogus part shows the definition of what we are saying. The House of Representatives Republicans—not the Democrats, the Republicans—took a moratorium, a 1-year moratorium banning earmarks in that period of time. How did they define it? They said:

> Resolved, that it is the policy of the Republican Conference that no Member shall request a congressional earmark, limited tax benefit, or limited tariff benefit, as such terms are used in clause 9 of rule XXI of the Rules of the House. . . .

What is clause 9 of rule XXI? It applies to every appropriation or authorization. In other words, they have said: we will neither appropriate nor authorize for a whole year. Now, the Democrats are going to do it. The President is going to do it. But they say they are not going to do it.

Of course, the authors of this amendment, they all agreed with and praised the House for doing this. But let's go ahead and see what the Constitution says, article I, section 9. Several people here have talked about the Constitution. It is times like this that I miss Bob Byrd. Senator Byrd, talking about the Constitution right now, would be really outraged. It is so plain what we are supposed to be doing here. But article 1, section 9 says:

> No money shall be drawn from the Treasury but in consequence of appropriations made by law.

Law, that is us. Article I, section 9 of the Constitution. That is not the President.

I would just say if you are looking at the Senate language, it says the term ''congressionally directed spending'' means a provision primarily at the request of a Senator providing expenditures, and so forth, to an entity targeted to a specific State or with any—everything is with or to an entity. In other words, they say—again, they are talking about all appropriations, all authorizations. We are not going to do that anymore. We are going to let the President do that. That is what this whole thing is about.

I was so excited when I heard for the first time them agreeing with me. By the way, it is not appropriate for me to tell this group or to say publicly what goes on inside a conference. In a Republican conference, I can say what I said, and I said to my colleagues when they were trying to get us, and they

did, I went up in 2008 and I went ahead and voted for a ban because I was told they would define it as an appropriation that has not been authorized. Now, all of a sudden—they didn't do it then, and all of a sudden they are talking about doing it, and I think I know why and I will tell you in a minute why I think it is.

So we are having this situation now where we are saying we are not going to authorize, we are not going to appropriate. There are two reasons to ban Senate spending by either definition. It cedes constitutional authority to the President and also gives cover to big spenders.

Let's go back to that article I, section 9 chart. The Constitution restricts spending only to the legislative branch and specifically denies that honor to the President. We take an oath to uphold article 1, section 9 of the Constitution. Now, maybe there is some doubt about this. If you think there is some doubt, let's go back and see what the Founders of this country said. Let's see what the authors of the Constitution said. Let's look at James Madison. He said:

> The power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining redress of every grievance.

The two reasons he did, if you studied the Federalist Papers, they said they wanted Congress to do the spending because if they do it wrong—first of all, they know the needs of the people of their State or their—whatever the unit was at that time. If they do it wrong, they can fire them. Look what happened on November 2. That is exactly what happened. Alexander Hamilton said:

> The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen should be regulated.

That is what we are supposed to be doing.

Mr. President, I have talked about Alexander Hamilton and James Madison. Probably the guy who was most knowledgeable on the Constitution was Justice Joseph Story, back in the early 1800s, when he actually said in his commentary:

> It is highly proper that Congress should possess the power to decide how and when any money should be applied. If it were otherwise, the executive would possess an unbounded power. Congress is made the guardian of the Treasury.

I say all this to impress upon any impartial patriot that the legislative branch—which is us—has the power to spend money. How does a ban on earmarks cede our authority to the President? This is something that is heavy lifting, but I think it is very important people understand why and how this happened. This is how it works. This is the way things work here and have for many years. The Constitution is very clear.

The President submits a budget to the House and Senate—us. There is an overall budget, but within the budget he says how much is going to be spent to defend America, for roads and highways, for water and infrastructure, all these things. We have these top lines under which we are operating. So let's take this as an example. I happen to be the second ranking member on the Armed Services Committee. In his budget last year, he had, I think, $330 million set aside for a launching system called a box of rockets. It is a good program, something we need. But with limited funding, we on the Armed Services Committee—and Senator MCCAIN talked about this—have experts who look at our missile defense system and say: How can we best defend America? The President doesn't know this. They can say that comes from the Pentagon, but that is not so. That is the reality. Instead of this launching system for $330 million, we decide to spend that same amount of money and buy six new, shiny FA–18 fighters or things that we knew we needed at this time. It didn't cost any more money. We are taking that money he wanted to spend on something else and we are exercising our constitutional prerogative. If we substitute our appropriation for his budget item, it would be an earmark by any definition. If we pass this, that means we have to take whatever the President wants to spend on America, and we would not do anything we wanted to. So we said six new FA–18s were what we needed, and it didn't cost 1 cent more.

In other words, we would be letting the President do what James Madison wanted us to do. If you look at this in the Armed Services Committee, the unmanned aerial vehicles, right now we have 36 of them flying around Southwest Asia over areas where there is combat, feeding information to our kids in the field there. We would not have unmanned aerial vehicles if it weren't for earmarks. We took something the President wanted and put that same amount of money into these unmanned aerial vehicles. Also, we would not have our improved armored vehicles and add-on armor. Why do you think we on the committee spent so much time on Iraq, Afghanistan, and around the world on that? We do it to find out our needs. Then we know more than the President knows about the needs.

We are doing what Hamilton, Madison, and Story wanted us to do. That is what we are supposed to do. I don't know how many of our young men and women in uniform would be dead today if it hadn't been for that. We wouldn't have Mine Resistant Ambush Protected vehicles. That was a congressional earmark. We wouldn't have had $14.2 million for the detection of landmines and suspected bombmakers and IEDs in Iraq and Afghanistan. That was my earmark on the Armed Services Committee. It didn't cost another cent. We merely canceled an equal amount of money that the President wanted to spend on something else and we exercised our Constitutional right. It didn't cost anything additional.

Eliminating earmarks wouldn't allow us to change anything in the Obama budget and would allow President Obama to perform our constitutional duties. As I said, constitutionally that is where we are and that money would be transferred, for all practical purposes, to President Obama. Second, it gives cover to big spenders. Under the current definition, let's look at two of the four largest earmarks in 2008. Using the Senate definition ''expenditures with or to an entity,'' the following qualified as earmarks. But rather than arguing as to whether they are earmarks, I will put them up to get a perspective. These are two of them in 2008. The TARP is one that I think—I know people get upset when I say this, but 10, 15, 20 years from now, historians will say the most egregious vote ever cast by the Senate was on the $700 billion bailout. You know where that went—AIG, Chrysler, and the General Motors bailout. That $700 billion was given to an unelected bureaucrat to do what he preferred.

Next was the PEPFAR bill, $50 billion. The author of this amendment, Senator COBURN, voted for both of these. I voted against them. This is something I wish all Members would do. This is called the Inhofe factor. I know I am not as smart as a lot of guys around here. When I see billions and trillions of dollars, I have to put it somehow into a perspective that I know what this costs my people in Oklahoma.

In 2009, $2 trillion in taxes was paid by individuals across the country, and $18 billion came from Oklahomans, which is about 1 percent of the Federal total. The average Oklahoma individual's tax return was $11,100 that year. Therefore, the average Oklahoma taxpayer is responsible for providing the percentage shown here of the total Federal revenue. For every $10 million in spending, Oklahomans pay about a nickel—not all the State but each taxpayer who files a tax return in Oklahoma. So that is what we have.

Put the next chart up. We see how that works in reality. If you take the amount and use the same factor to those two bills, the TARP bill, the $700 billion bailout, and the $50 billion PEPFAR bill, that is $750 billion, and you apply that factor, each of my taxpaying families in Oklahoma would have to have an obligation of $3,500 that year. That is what it would cost. Someone might argue that they didn't spend the whole $700 billion, that some of that came back in. That is true. But they authorized it and said you can do it. They were willing to have each taxpayer in Oklahoma spend $3,552 in taxes. The total amount of requests that I had—in other words, earmarks—were some $80 million, and that was mostly in the area of defense. Using the same factor for each family in

Oklahoma to get to the $80 million, because we are trying to defend America, it would cost them 40 cents. Those are earmarks—40 cents versus $3,552 that the author of this amendment we are talking about would have to spend. You know, I think at some point you have to look and see what this cost is.

If you go back to the chart No. 4 there, several things have been said today that were not true. I am not saying they intentionally misrepresented the truth, but they did it inadvertently while being caught up in this thing. The statement was made by a Senator—it might have been the occupant of the chair. The statement was made that, as earmarks are going up, this is causing spending to go up. That is not what is happening. If you take the total amount of earmarks in 2010, according to OMB, that would have been $11 billion. If you look and see what happened each year, it goes down in the amount. It started at $18 billion 5 years ago and went down to $15 billion and then to $12 billion and now to $11 billion. So it is coming down. That is why we have to look at this in reality.

I notice my good friend, Senator DEMINT, from South Carolina, has been active in this, and the last time I spoke on the floor I pointed out that Senator DEMINT had all these different earmarks that he has been able to get for his State, and I don't know how you can talk about eliminating earmarks and yet do that.

The platitudes that are used—it is interesting when you don't have the facts on your side, you don't have logic on your side, but you have a population who has been led to believe earmarks are bad—that means appropriations are bad, authorizations are bad unless they are done by the President; those individuals say earmarks are a gateway drug that needs to be eliminated in order to demonstrate that we are serious about fiscal restraint. There is only one problem with that. It is not true.

According to the Office of Management and Budget, again, and the Federal spending watchdog groups such as Citizens Against Government Waste, earmarks have dramatically decreased over the last several years. I mentioned 2005, $19 billion; 2008, $16 billion; 2009, $15 billion; 2010, $11 billion. So while the total number of earmarks and all dollars of earmarks have declined, the Obama deficit has ballooned to $3 trillion in 2 years. So obviously they are not a gateway drug, but it sounds good. But these are the platitudes.

When they say it is symptomatic of all this garbage, we are talking about real dollars here. And we can't get down to doing something about real spending until we quit demagoguing this issue.

I am going to give an easy way to correct this problem in just a minute, but if you need further proof, in 2009 the Senate performed a rare action of considering many appropriations bills individually rather than doing the irresponsible thing we are talking about doing now and lumping them all into one bill to consider at the end of the year. The value of considering these bills individually is that it gives Senators the opportunity to exercise some oversight in government.

In 2009, Senators could offer amendments to both cut spending and strike particular earmarks if they desired, and they did desire. Between the months of July and November of 2009, there were 18 votes specifically targeting earmarks. Now, they failed, but if they had passed, it wouldn't have saved one penny. Instead of putting the money back into the pockets of the American people by reducing spending or shrinking the deficit, these efforts to eliminate earmarks would have put the money into the hands of President Obama by allowing his administration to spend the money as it saw fit. At the end of the day, none of the money would have been saved. President Obama wins, the American people lose.

In another case, Members offered an amendment to strike funding out of a program called Save America's Treasures, for specific art centers throughout the United States, but the money was simply shifted to allow the Obama administration to do it. The same thing happened with the transportation projects. Several Members offered amendments to strike a variety of transportation projects in many States, and they were unsuccessful. So what happened? That money went back to the bureaucracy controlled by President Obama. Not one of these actions saved a dime, but it made President Obama happy because it went back to his coffers.

We have clearly demonstrated two points. First of all, spending is the exclusive obligation of the Senate and, secondly, killing an earmark doesn't save a dime; it merely gives money to President Obama.

It reminds me of what I went through 10 years ago when I couldn't get anyone to understand how they were cooking the science and why we should not pass a cap and trade. Everybody thought the world was coming to an end, and I was that one person. Granted, that was 10 years ago, but now it is the prevailing thought here in Congress. In fact, the United Nations, which started the whole concept of global warming, is having their big annual party next week and not even one—none—of the media is going to show up. Hardly anyone is going to show up to the thing because people realize it was a phony issue. It was, in fact, the greatest hoax ever perpetrated on the American people. I said it, and everyone got mad at me and even hated me. So I do not mind being the only one, and I am the only one on this.

A couple of good things have happened, though. It has been mentioned by several of those who were the most adamant in opposition to earmarks. In the case of Rand Paul, from Kentucky, our new Senator—whom I am so happy to have with us—has said he would argue for things for the State of Kentucky. And Senator Mike Lee said:

> I wouldn't say there's a mandate to stop spending for roads or any other general purpose like that.

Another House Member, MICHELE BACHMANN, said—and I think this has already been stated by one of the other Senators:

> I don't believe that building roads and bridges and interchanges should be considered an earmark.

Great. I agree. That is my whole point. So we are seeing these people now coming around and saying: Well, we do have a job to do.

Senator CHAMBLISS said:

> There are times when crises arise or issues come forth of such importance to Georgia, such as the Port of Savannah, that I reserve the right to ask Congress and the President to approve funding.

Well, there it is. So I would say those individuals who are on the other side realize that is the wrong side. But let me say something else. I am very proud of some of the talk shows. I am on quite a few talk shows. And when you get a chance to talk, the way I am now, and explain to people what the situation is—I am looking now at I think 12 major talk show hosts in America who now pretty much agree with what I am saying tonight: Mike Gallagher, Mark Levin, Dennis Prager, Scott Hennen, Janet Parshall, Hugh Hewitt, Michael Savage, Crane Durham, Lars Larson, Jason Lewis, Rusty Humphries, Jerry Doyle, and quite a few others. And it was not easy for them to say: Maybe INHOFE has a point, so let's look at this a little closer.

So let me just say there is a solution. And I have to give credit where credit is due. These are not my thoughts. This is what I did. We have eight great Americans and the conservative groups they head up, and I am talking about Tom Schatz, president of Citizens Against Government Waste; Melanie Sloan, director of Citizens for Responsibility and Ethnics in Washington; Steve Ellis, Taxpayers for Common Sense; Craig Holman, Public Citizen; Jim Walsh, Rich Gold, Manny Rouvelas, and Dave Wenhold. Thanks to them, we can put this whole earmark issue to rest because they authored ''The 5 Principles of Earmark Reform.'' There they are, the five principles of earmark reform. These are all the conservatives who said we really need to do something about this and at the same time preserve our constitution. So I introduced, a couple of weeks ago, S. 3939, and what I did is I took everything they had and I put that into a bill. And there it is. So take it a section at a time.

No. 1 of the five principles: To cut the cord between earmarks and campaign contributions, Congress should limit earmarks directed to campaign contributors—exactly what S. 3939 does.

Section 2:

No earmark beneficiary shall make contributions aggregating more than $5,000.

The second principle: to eliminate any connection between legislation and campaign contributions. That is the second. The third principle: To increase transparency, Congress should create a new database of all congressional earmarks. And it goes on, and they elaborate and say this is all something you can find, but you can't get your hands on it. It is too complicated. So consequently we put in our bill, in section 4, the following:

The Secretary of the Senate and the Clerk of the House shall post on a public Web site of their respective houses, a link to the earmark database maintained by the Office of Management and Budget.

Every one of these things—and I could go through each and every one—is answered in S. 3939. So if you really want to do something about it, pass that bill and you will have solved the problem and you will have kept our constitutional duties intact.

We did one more thing because it goes one more step. This is very important. There was an oversight, but they all agree with this now. This goes a step further. It says that the administration—President Obama, the bureaucracies—will have the same transparency as senatorial earmarks. So Senator MCCAIN talked about lobbying these bureaucracies. Sure, they are doing it, because if we don't do the spending or the appropriating and authorizing, then the President does it. So the bureaucracy is doing that. So we have a section in this bill that subjects them to the same thing.

Do you remember when Sean Hannity came up with the 102 most egregious earmarks? This is just some of them. There were 102, and I read them all on the floor from this podium, and I did it to make sure people understood what he had found out. I said at the end of reading all of these earmarks—look at some of these: $300,000 for helicopter equipment to detect radioactive rabbit droppings—that all 102 have something in common: not one of them was a congressional earmark. They were all bureaucratic Obama earmarks. So that is the reason for that. And if you want reform, that is how to get it.

I know there will be some Members who will not be able to resist the fact that they can have a great opportunity with one vote. They can make people think they are conservative and give President Obama what he wants, and they can be politically correct. But, again, we have a solution to the problem. That solution will come.

Mr. President, in that conference I mentioned about 30 minutes ago, I said that if you want to do something to do away with the earmark and all this, all you have to do is define an earmark as an appropriation that has not been authorized. Authorizing committees are the discipline for appropriations. A lot of our appropriating friends won't like this idea, but that would do it. We heard several of the Senators, including my junior Senator, the author of this amendment, and Senator MCCAIN, saying this is good, we have done away with authorizing. We need to authorize these things.

In the Armed Services Committee, we have experts in every field. One of the experts is a group of people who look at our missile defense system. Right now, we are in very serious problems in this country by taking down the site in Poland that would stop the ground-based interceptor site. That is something we should be doing. We need to have redundancy. We know we can hit a bullet with a bullet, and we should do that. We have the experts who know how to do that.

So I would say we have an opportunity. We can reform this. We can subject the bureaucracy to the same transparency to which we are subjected. We should do away completely with terms such as ''earmarks'' as people are thinking of them in their minds and go to having them redefined as appropriations that have not been authorized. I know it is a hard concept and one that not many people want to believe, but it is much easier to oversimplify it and say that all earmarks are bad. Well, if you define them properly, I agree they would all be bad. Anything that is appropriated that is not authorized, in my opinion, is bad and should be done away with.

So with that, this one voice in the wilderness, one conservative is saying this is the true story. If you really do want to cede our constitutional authority to President Obama, you can do it by passing this amendment. This allows them to get the authority we have. And if you really believe that is the thing to do, after looking at the Constitution and what Justice Joseph Story and Hamilton and Madison all said we are supposed to be doing here, let's seriously consider that and resolve this problem, put it behind us so we can quit distracting from the big spending going on today that has given us a $3 trillion deficit in 2 years.

With that, Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9 a.m. tomorrow.

Thereupon, the Senate, at 10:01 p.m; adjourned until Tuesday, November 30, 2010, at 9 a.m.